

REPORT

OF THE

COMMISSION OF INQUIRY

ON

MARUTI AFFAIRS

MAY 31, 1979

NEW DELHI

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INTRODUCTION

By notification No. S.O. 375(E) dated the 30th May, 1977 the Central Government appointed a Commission of Inquiry for the purpose of looking into the affairs of the following Maruti concerns :

- (i) Messrs Maruti Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956) and having its registered office at Palam-Gurgaon Road, Gurgaon, (Haryana);
- (ii) Messrs Maruti Heavy Vehicles (Private) Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956) and having its registered office at 138-B, New Colony, Gurgaon (formerly, Palam-Gurgaon Road, Gurgaon);
- (iii) Messrs Maruti Technical Services (Private) Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956) and having its registered office at E-49, Kirti Nagar, New Delhi.

The terms of reference of the Commission were framed as follows :

- “(a) to inquire into the matters specified in the Annexure to this notification in relation to the companies and firms specified in the foregoing paragraph to ascertain whether, in order to show any undue favour, or to cause any undue pecuniary or other benefit to accrue, to one or more Maruti concerns, there was any abuse of power or position or contravention of law or normal official procedure by, or on the part of, any person in authority, or any other person related to, or associated with, such person in authority, or any other high official or public servant in relation to all or any of the matters specified in the Annexure to this notification, and if so, the facts and circumstances relating to, or pertaining to, such abuse of power, position or contravention, the extent of involvement of, or improper pecuniary benefit derived by, any person aforesaid, and the extent of undue favour shown by such person to one or more of the said companies or firms and the undue financial or other benefit accruing to such companies or firms by reason, or in consequence, of such favour; and
- (b) to inquire into any other matter which arises from or is connected with or incidental to any act, omission or transaction referred to in the Annexure aforesaid.

The Annexure to the notification lists thirteen matters. The thirteenth item reads :

“All matters in relation to items 1 to 12 pertaining to the role and part of any Director or Managing Director of the said Maruti concerns, or any friend or associate of such Director or Managing Director, and all the facts and the circumstances relating to cases where any direct or indirect advantage was taken of any relationship or connection of any such Director or Managing Director with any Minister or other public servant as well as the role of any person who directly or indirectly aided or assisted in the taking of such an advantage”.

Item No. 13 is therefore not a separate matter for inquiry, it really amplifies the scope of the preceding twelve items.

In August 1977, after the Commission was allotted an office accommodation, it issued a notification as required by rule 5(2)(b) of the Commissions of Inquiry (Central) Rules, 1972 inviting individuals, companies, corporations, societies and other persons acquainted with the subject matter of the Inquiry to furnish to the Commission a statement of facts supported by an affidavit. Subsequently the Commission issued notices to the shareholders of Maruti Limited to furnish relevant information in regard to their holdings or points mentioned in the notice. Notices seeking information on specified points were also sent to certain Government Departments/offices/ Organisations in respect of certain contracts and transactions entered into by them with the Maruti concerns.

The Commission framed rules to regulate its procedure and also to regulate inspection of documents by the parties. The Commission of Inquiry on Maruti Affairs (Regulation of Procedure) Order, 1977 and the Commission of Inquiry on Maruti Affairs (Regulation of Inspection of Documents) Order, 1977 were published incorporating these rules.

The Commission held 111 public sittings between December 16, 1977 and February 16, 1979 and examined 268 witnesses, some of whom came more than once. The Commission also perused about 712 affidavits filed by different persons and altogether about 2,000 files of the Central and the State Governments and various other institutions and statutory bodies. Notices under section 8B of the Commissions of Inquiry Act, 1952 were issued to 36 persons. In response, 29 of them filed statements

(iii)

supported by affidavits, and one replied by a telegram; some of these statements however came late, after the public sittings of the Commission had ended.

Copies of some of the documents referred to in the report and a list of the names of the witnesses and those who filed affidavits are included in an appendix (in four parts).

I would like to place on record my appreciation of the co-operation I received from all those who worked with me in this Commission, at all levels. I am also grateful to learned counsel who assisted this Commission appearing as Commission's counsel, or for the Central Government and the Governments of Haryana and Uttar Pradesh, and for other parties who came before the Commission.



CHAPTER I

Of the first two items in the list of matters for inquiry specified in the terms of reference of this Commission, the second is really a part of the first. The first item covers :

"All matters pertaining to the initiation, processing and clearing of the Maruti small car project including :

- (a) the comparative merit of the Maruti car project *vis-a-vis* other claimants for a licence to manufacture a small car,
- (b) the preference, if any, shown to the said Maruti car project and, in case there was any such preference, the reasons for the preference shown and its justifiability".

The Maruti car project was cleared when a licence to manufacture cars was given to Shri Sanjay Gandhi who had applied for it. The second item includes "all matters relating to the proper testing and clearance, by the appropriate authority, of the prototype Maruti car and its parts and components". Obviously, it was only after proper testing of the prototype that the Maruti small car project could be cleared. The second item thus relates to an aspect of the wider content of the first. I therefore propose to deal with these two matters together in this chapter.

On December 11, 1968 Shri Sanjay Gandhi applied for a licence under the Industries (Development and Regulation) Act, 1951 for the establishment of a new industrial undertaking to manufacture motor cars. He named the undertaking, which was to be a public limited company, Maruti Limited. From a letter written by the Assistant Secretary, Rolls Royce Motors of England in answer to a query made by his Commission, it appears that Sanjay Gandhi had been in the employ of Rolls Royce Motors as special student apprentice for about three years from August 31, 1964. The special student apprenticeship is of four years duration. Following the "normal practice for student apprentices", Shri Gandhi "attended the local Technical College on a day-release basis (1 day each week) throughout the three years he was with the company" and "received an ordinary National Certificate in Mechanical Engineering" on passing an examination in June 1967. This was "a relatively minor qualification and two years further study would have been necessary for him to obtain a significant academic qualification, which would have been a Higher National Certificate". However, Shri Gandhi did not complete the special student apprenticeship. His apprenticeship ended in July 1967, and he finally left the company's employment in September 1967.

The idea of a low cost passenger car, sometimes described as the "people's car" or "small car", had been under consideration of the Central Government for a long time before Shri Sanjay Gandhi came on the scene. For years the Government had been trying to decide on a definite policy regarding the automobile industry. A brief survey of this prolonged exercise will be useful for a proper appreciation of the circumstances relating to the clearing of the Maruti small car project.

In 1959 the Government set up a committee under the Chairmanship of Shri L. K. Jha, then Additional Secretary, Ministry of Commerce and Industry, to examine, among other things, the feasibility of producing in this country a low cost passenger car within the price range of Rs. 5,000—Rs. 7,000. There were then three existing manufacturers of passenger cars : Hindustan Motors Limited of Calcutta, Premier Automobiles Limited of Bombay, and Standard Motors Products of India Limited of Madras. The Jha Committee submitted its report on January 25, 1960. The main conclusions of the Committee on this topic, which the Government accepted, were that there would be sufficient demand to sustain the economic production of a low-cost car but there was little prospect of the price of any of the passenger cars then being produced coming down to the level of Rs. 5,000—Rs. 7,000 and that, to have a cheaper car, a more modest vehicle would have to be chosen. To consider whether it was feasible to manufacture a low cost car, available for about Rs. 6,500 inclusive of all charges, Government decided to appoint an Expert Committee that would examine the matter at technical levels. It was also decided that in case the Expert Committee considered it feasible, the project would be undertaken in the public sector. An Expert Committee under the Chairmanship of Shri G. Pande, Vice-Chancellor, Roorkee University, was appointed in October 1960. On the basis of the proposals received by the Jha Committee and the data collected subsequently by the Ministry of Commerce and Industry, the Pande Committee wrote to thirteen foreign manufacturers and Hindustan Aircraft Limited, Bangalore, asking them to indicate whether they were interested in collaborating with the Government of India in setting up a production unit in the country. On an overall assessment of the detailed proposals received from some of these manufacturers, the Committee concluded that if the Renault "Dauphine" model of M/s Regie Nationale des Usines Renault of France was selected, "the objective which the Government have in view will be achieved". On the proposal of Hindustan Aircraft Limited, Bangalore, who were trying to develop an "indigenous car", the Committee was "greatly impressed" by the attempt but thought that "the development of a new design of passenger car is,

however, of necessity a lengthy process" and that "it would be wholly inadvisable to consider the establishment of a plant for the production of such a car" because "no one can with any certainty, predict the time that may be necessary before the design is fully and satisfactorily established for mass production".

Pande Committee's report was considered by an *Ad hoc* Committee of Secretaries and it was decided to bring the matter before the Cabinet. The Planning Commission and the Ministry of Finance (Department of Economic Affairs) who were asked to comment objected to the project mainly on the ground of the foreign exchange position at the time. The Note prepared for the Cabinet sought directions as to whether the low cost car project should be taken up for implementation and negotiations with Renault resumed having regard to the views expressed by the Planning Commission and the Ministry of Finance. Consideration of the note was however postponed by the Cabinet in view of the "foreign exchange situation". Shri C. Subramaniam, then Minister of Steel and Heavy Industries, made a statement in the Lok Sabha on August 9, 1962 that "the small car project could not be moved up in the list of priorities and for some time to come the priority in the field of automobiles should be definitely and overwhelmingly in favour of the manufacture of commercial vehicles for the transport of goods and public passenger transport and that Government have to defer consideration of the small car project till more propitious conditions".

Criticism however grew in Parliament and outside about the inadequate supply of passenger cars in relation to demand and their inferior quality and high prices. One aspect of the criticism was that the Government was "helping in this manner the monopolist interests to grow in the automobile industry and leaving it entirely in their hands". (Shri Bhupesh Gupta's speech in Rajya Sabha on August 27, 1962).

While in the third five year plan, the target fixed was 30,000 cars per annum, the production was well below that level and the demand was estimated to be much in excess of 30,000. The Working Group on Transport Equipment had estimated that the demand would be about 80,000 cars per annum by 1970-71. Consultations held by the Ministry of Industry with the existing manufacturers failed to find a solution to the problem—how the increasing demand could be met consistently with the public expectation as to prices and quality within the limitations of the prevailing conditions. In the meantime the Ministry maintained touch with some of the foreign parties who had shown interest in the small car project in India but it was not possible to go beyond the stage of preliminary discussions in the absence of a definite policy. The advice of the Sub-Committee of the Economic Committee of the Cabinet on Key and Basic Industries was sought in this matter. The Sub-Committee met on August 25, 1965. The meeting was attended among others by Shri T. T. Krishnamachari, Minister of Finance, and Shri T. N. Singh, Minister of Industry. A proposal for exploring the possibility of locating a small car, that is, a low cost passenger car, project in the private sector was discussed in the meeting. This appears to be the first time when the private sector was seriously

thought of in this context. On a consideration of the different issues, the Sub-Committee ultimately decided that a comprehensive paper setting out all the relevant points should be placed before the Cabinet. The Cabinet met on July 28, 1966 to consider the summary put up by the Ministry of Industry. While a definite decision in the matter was deferred, the Cabinet desired that the possibility of setting up indigenous capacity in the private sector might be examined provided this could be done without any import requirement or request for foreign exchange.

The subject of small car came up for Half-an-Hour discussion in the Lok Sabha on August 5, 1966. Shri H. C. Linga Reddy (Chikballapur) made a scathing attack on the Government for their indecision; he criticized the Government for not allowing the State Governments to proceed with the small car project and appealed to the Government to decide between taking up the project in the public sector or allowing the State Government of Mysore to start the manufacture of small cars within the price range of Rs. 7,000—Rs. 10,000. The member was referring to a proposal from the Mysore Government based on a prototype car developed by the Hindustan Aeronautics Limited. Another member, Shri Joachim Alva (Kanara) questioned the wisdom of entrusting the production of small car to a private party. In his reply, Shri D. Sanjivayya, Minister of Industry, made a categorical statement that if the Government was not able to take up the project "in the Central sphere", it would "certainly consider the Mysore case" and "then only we will consider the private sector".

S. R. Kapur, Under Secretary in the Ministry, elaborated the implications of the Cabinet decision of July 28, 1966 in his note dated August 17, 1966. According to this note, the scheme as approved by the Cabinet implied that it should be based completely on indigenous efforts involving no import of capital goods, components or raw material. The note said that even if some parties were prepared to make their own arrangements to meet the foreign exchange expenditure involved in the import of any required item, such a scheme should not be entertained. All the schemes in hand at that time including the offer from the Mysore Government and another from Mysore State Industrial Investment and Development Corporation Limited envisaged foreign exchange expenditure for the import of capital goods as well as components and raw materials. The note added :

"It is inconceivable that at the present stage of our industrial development, an indigenous industry would be in a position to supply all the special purpose machines required for the automobile industry. Similarly we are not yet self-sufficient either in regard to components or raw materials, with the result that even car manufacturing units which had been functioning for the last several years are still dependant on imported components/raw materials, the value of which is not insignificant".

It was doubted whether any useful purpose would be served by the Ministry in exploring the possibility of

setting up such completely indigenous capacity either in the State sector or in the private sector. The note however suggested that the parties who had already shown interest might be written to on the basis of the Cabinet decision and that if a worthwhile scheme from the Mysore Government was forthcoming, it might be given first consideration as assured by the Minister of Industry in the Lok Sabha on August 5, 1966. Orders were sought as to whether the Ministry's approach should be confined to these parties and the existing car manufacturers or whether a fair chance should be given to everyone in the country by issuing a public notice on this subject. Shri R. V. Subrahmanian, then Joint Secretary in the Ministry, expressed the view that proposals from the State Government organisations should be considered first, then those from the private sector units, and lastly the proposals of the existing automobile manufacturers. Shri N. N. Wanchoo, who was then Secretary, disagreed with the Joint Secretary as regards entertaining any proposal from the existing automobile manufacturers. He was also against issuing public notice which he thought would only invite "wild cat schemes". The procedure of inviting applications is contemplated in rule 14 of the Registration and Licensing of Industrial Undertakings Rules, 1952, framed under the Industries (Development and Regulation) Act, 1951. The relevant rule is as follows :

"14. *Invitation of applications.*—(1) The Ministry of Commerce and Industry or the authority appointed by it in this behalf may, where it considers necessary, invite, by means of a notice published in the Gazette of India, applications for the grant of Licences for the establishment of new industrial undertakings in any scheduled industry.

(2) An application received under sub-rule (1) shall be dealt with in the manner laid down in rules 10 to 13".

Rules 10 to 12 to which reference will be necessary later in this chapter, are not relevant in this context. S. R. Kapur's note however made it quite plain that in any case it was to be an exercise in futility. The view expressed in Kapur's note was echoed by Shri Sanjivayya, Minister of Industry, in Rajya Sabha on August 25, 1966. Replying to Rajya Sabha Starred Question No. 666, the Minister said that while effort was being made to maximise the indigenous contents of the car manufacture in the country, it was difficult to say when a car with cent per cent indigenous content could be manufactured in India and at what price.

On September 1, 1966 Shri S. R. Kapur wrote to all the parties in the country who had earlier sent in their proposals requiring them to submit revised detailed schemes to show that they were in a position to undertake manufacture of low cost car without any imports whatsoever or request for foreign exchange, either for capital equipment or for components and raw materials. To this letter there was no reply from many of these parties including the Government of Mysore, Industries and Commerce Department, and such proposals as were received from a few of them

did not conform to the requirements of a totally indigenous car. In this connection the Directorate General, Technical Development, DGTD for short, an establishment under the Ministry of Industry, pointed out that there was little possibility of any firm in India at that time being in a position to manufacture cars without importing special purpose machines or without involving foreign exchange expenditure on the import of various categories of special steel and non-ferrous metals. In their opinion foreign exchange would be needed not only on capital account but also for maintenance needs⁽¹⁾.

The scepticism expressed by Shri S. R. Kapur in his note of August 17, 1966 hardened to a definite stand for rejection of the proposal to establish a new unit in his subsequent note recorded on January 21, 1967. Here his suggestion was for allowing the existing manufacturers to expand. The Fourth Five Year Plan capacity and production target for passenger car industry was then fixed at 50,000 cars per annum, and the capacity already installed in the three existing car manufacturing units in the country was 30,000 cars a year. It was contended in the note of January 21, 1967 that the gap of only 20,000 cars per annum was not enough to justify the establishment of a new unit and therefore the idea should be abandoned and proposals for the expansion of the existing car manufacturers considered. Shri R. V. Subrahmanian endorsed the suggestion for allowing the existing manufacturers to expand to the extent their resources would permit. He also saw little scope for the establishment of a new unit for the manufacture of cars, whether in the public sector, Central or State, or in the private sector. Shri N. Subrahmanyam, Special Secretary in the Ministry of Industry, also accepted the suggestion. A draft summary was then made for the Cabinet which was more or less a replica of the notes prepared by S. R. Kapur. From the notings in the file it appears that the file had gone to Shri Fakhruddin Ali Ahmed, who was the Minister of Industry at the time, and had remained with him till May 19, 1967 when it was returned with the noting : "This may be returned. I have discussed with Joint Secretary". After this, the draft summary was not heard of again ; why it was withdrawn before it reached the Cabinet for discussion is not known.

In the meantime several parties came forward with their small car schemes none of which, however, satisfied the conditions laid down by the Cabinet, namely, that the scheme in the private sector should not be based on any imports or involve request for foreign exchange. The note prepared by S. R. Kapur on May 4, 1967 on these proposals stated that unless the Cabinet took a final decision in the matter, it was not possible to pursue the proposals. One of the proposals received was from Shri P. M. Reddy, sponsored by the Mysore State, for the manufacture of Japanese Mazda car in India. Ultimately, after deliberations a questionnaire was prepared and sent to all the parties who had come with proposals both foreign and Indian. A reading of the questionnaire discloses that it was not meant for exploring the feasibility of manufacturing low-cost car in the private sector without involvement

(1) Ministry of Industry, AE Ind (1) Section, File No. 1(76/A)/66-AE Ind(1) Volume II PP. 8—13/N.

of foreign exchange expenditure or import of capital goods, components or raw materials ; it sought specific information on the technical aspect of the project and also on such matters as foreign collaboration, imported machinery, raw materials etc. The questionnaire sought details as to how the project should be financed for foreign exchange, details of foreign capital participation, if any, and the extent of such participation. Shri Fakharuddin Ali Ahmed, Minister of Industrial Development and Company Affairs, answering a question in the Rajya Sabha on July 27, 1967 said that while the Government was anxious to explore all the possibilities of manufacturing a cheap car, it would be their endeavour to have it as far as possible in the public sector.

The replies to the questionnaire received from the various parties were examined by a departmental committee. The committee found only two of the schemes worthy of detailed consideration, one submitted by Renault of France for manufacture of their R-4 or R-1 model, and the other, proposed by the Mysore State Industrial Investment Development Corporation, for Mazda 800 in collaboration with M/s. Toyo Kogyo of Japan. The committee preferred the Renault proposal.

The Tariff Commission instituted an inquiry under section 11(e) read with section 13 of the Tariff Commission Act, 1951 and considered the desirability of a new unit for manufacturing passenger cars. From its report, submitted on March 16, 1968, it appears that the Tariff Commission did not consider it advisable or desirable to set up a new unit in addition to those already in existence. The Commission was of opinion that "there is no possibility that such a new unit can be set up with entirely indigenous resources based on indigenous standards and specification". One of the members, Shri K. T. Merchant took a different view and in his note of dissent observed : "The proposed project for a new unit for small car (in private or public sector), if rightly and carefully selected, might provide the internal competition that seems to be so badly needed". However, Shri Merchant also thought that a purely indigenous car was "yet a distant dream".

On the two *prima facie* feasible offers approved by the Departmental Committee, Shri R. V. Subrahmanian, Joint Secretary, prepared a self-contained note which reveals the departmental committee's preference for Renault over Mazda, and sent it to Shri K. B. Rao, Adviser (Industry and Minerals), Planning Commission. It appears that on July 2, 1968 Shri K. B. Rao forwarded to R. V. Subrahmanian a detailed report on the expansion of car production in India prepared by the Premier Automobiles Limited. This report came up with a new proposition for manufacture of Fiat 600D model which, according to the report, would cost only Rs. 9,000 ex-factory at the current level of production. This price was expected to be progressively reduced to Rs. 8,100 when the production level reached 40,000 cars per annum. In a note sent to K. B. Rao on July 12, 1968 Shri R. V. Subrahmanian conveyed the view of the Ministry of Industrial Development that there was reasonable ground to assume that the demand at the end of the Fifth Plan would increase

between 80,000 to 85,000 cars per year which was adequate to sustain a new unit, and that it was hardly possible to achieve a total capacity of 80,000 to 85,000 cars per year by fuller utilisation of the existing capacity or by marginal expansion of all the three units in the country. The note added that an expansion of the existing units was not likely to result in any appreciable reduction in the prices of the cars.

While the policy was still undecided between the public sector and the private sector, whether a new unit was to be set up or the existing units were to be expanded, Shri Sanjay Gandhi returned to India after his apprenticeship with the Rolls Royce Motors of England had ended. On his return Shri Gandhi busied himself trying to build a small car in a shack in the Gulabi Bagh area of Delhi. Sometime in August 1968 Shri R. V. Subrahmanian, Joint Secretary in the Ministry of Industrial Development handed over a preliminary project report of Shri Gandhi's small car venture to DGTD for scrutiny. Depositing before the Commission Shri R. V. Subrahmanian could not remember how the project report which he made over to DGTD came to him. Another copy of the project report was made over to the Planning Commission. There is a note on the proposal in the Planning Commission file No. I & M 4(3)/10/66, (Note file pages 49 to 56) recorded by Shri R. Venkataraman, Member (Industry), Planning Commission on September 9, 1968 which reads :

"Here is a proposal for a small car manufacture. This may be analysed and put up. I understand that a similar paper has been presented to the Minister for Industrial Development and Company Law Affairs".

From this note, it seems possible that the Minister of Industrial Development and Company Affairs at the time, Shri Fakharuddin Ali Ahmed, made over the project report to the Joint Secretary in his Ministry, R. V. Subrahmanian who sent it to DGTD for scrutiny. The project report was studied by DGTD. The results of the study were summarized by Shri B. S. V. Rao, Development Officer, in his note dated November 11, 1968. The project report envisaged a two door car fitted with two cylinders and two stroke air-cooled rear mounted engine of 14 H.P. The car was to have tyres 400×8 in size which was similar to scooter rikshaw tyres. No foreign collaboration or import of machinery, raw material or components was envisaged, upto 80 per cent of the value of the car was to be bought out from indigenous sources. The price of the car was expected to be Rs. 6,000 ex-factory. Shri Rao had a word of praise for the conception of the car but felt that the engine power was inadequate considering the size of the car which was to accommodate six persons besides luggage. He also thought that the size of the tyres being small the risk of skidding was greater. Shri M. M. Vadi, Senior Industrial Adviser, DGTD, held the view that for the large volume of production of 50,000 cars in two shifts envisaged in the project report, the investment on plant and machinery, Rs. 2.26 crores, looked much too low. He agreed with Shri Rao that the engine proposed looked under-powered for the size of the car. Vadi added that at the moment there was not enough supply of steel sheets and special steel required for the car

project though these might be available in the long run. Both Rao and Vadi were of opinion that the prototype of the car must be examined by an expert committee from the point of view of performance and roadworthiness. R. V. Subrahmanian while sending Sanjay Gandhi's project report for scrutiny by DGTD had desired that their comments on the report might be handed over to him; accordingly Shri Rao, Development Officer, handed over the file containing the comments to him. The project report sent to the Planning Commission was examined by Shri S. L. Vaswani, Senior Research Officer. In his note dated September 18, 1968 he found, among other things, that the investment for the project was under estimated and the proposed two stroke air-cooled engine needed thorough field testing; the small size of the tyres also attracted criticism.

All these exercises were undertaken by DGTD and the Planning Commission months before Sanjay Gandhi applied for an industrial licence, which he did on December 11, 1968. To a question whether any other entrepreneur could have had the merits of his project examined before he applied for an industrial licence as was done in the case of Shri Sanjay Gandhi, Shri R. V. Subrahmanian's answer was that though generally the project report was annexed to the application for licence and was examined after the application was received, it was not "quite unusual" to take up for scrutiny a project report which might be sent before making the application. To another question as to what was special about Shri Gandhi's case that the Development Officer, DGTD, should come to the Joint Secretary personally to hand over the DGTD comments on Shri Gandhi's project report and whether such treatment would have been extended in other cases, Shri Subrahmanian did not really have an answer. Shri B. D. Pande, who was then Secretary of the Planning Commission, was also asked whether it was customary for the Planning Commission to examine project reports from private parties, his reply was that it was not "totally unusual" for the Planning Commission to examine a private proposal if it was "something novel".

Near about the time when Shri Sanjay Gandhi's project report was being considered by DGTD and the Planning Commission, some of the Delhi newspapers carried write-ups about Shri Gandhi's small car. This is what the staff reporter of the Statesman wrote under the caption "Production of Mini Car : Sanjay's Dream" in the issue of the paper dated September 21, 1968. "When Sanjay Gandhi 21, fresh from a three-year stint at the Rolls Royce Company in Britain, started working a year ago to build a small car in a shack in the motor mechanics' colony in Gulabi Bagh off Roshanara Gardens, many were sceptical. But he went ahead, assembled bits and pieces and produced a four-wheel structure powered by a motorcycle engine. He drove it out 100 miles with four of his friends on the Grand Trunk Road". Shri Sanjay Gandhi is reported to have said, "My application for a licence is already lying with the Ministry of Industry, the only application for an indigenous car. If all goes well, the car might be available to the public within the next year or two". In fact the available records show

that Sanjay Gandhi applied for a licence months later, on December 11, 1968, though DGTD and the Planning Commission had considered his project report earlier. It is not explained why he made this incorrect statement and, also, how he knew that there was no other applicant for licence claiming to be in a position to manufacture an indigenous car; and, in fact, there was none till that day. The Hindustan Times of October 7, 1968 published under the heading "Mini-car Maker" its reporter's interview with Sanjay Gandhi : "Waiting for a licence for the production of a small car designed by himself is Sanjay Gandhi (21), the Prime Minister's younger son He returned to Delhi a year ago after a three-year training period with Rolls Royce in England. Ever since then he has been working on getting together a small car, entirely with indigenous parts Sanjay made first one prototype mini-car and now has almost completed the second. The first prototype was fitted with a second hand engine and the body had been given no finishing touches. Sanjay and his friends ran it over 1,000 miles in and around Delhi, mainly in rural Delhi on kucha roads. They did it to prove the car's hardness Describing the car of his designing and making—each part made locally to order in Delhi's small workshops—Sanjay says it looks like a mini station wagon". The extracts quoted above have been described by Shri Dharam Yash Dev, a journalist who deposed before the Commission, as "promotional publicity".

After DGTD and the Planning Commission had scrutinized the project report, Shri Gandhi had a meeting with Shri Bhanu Prakash Singh, Deputy Minister, Industrial Development and Company Affairs, on November 20, 1968 which was attended also by the officials of the DGTD, namely Dr. B. D. Kalelkar, Director General; M. M. Vadi, Senior Industrial Adviser; N. T. Gopala Iyengar, Industrial Adviser; and B. S. V. Rao, Development Officer. Various features of the project were discussed and Sanjay Gandhi made it known that he was planning to modify many of the major components of the car and the DGTD officials also made a number of suggestions.

On December 11, 1968 Shri Sanjay Gandhi applied for an industrial licence. In the application the proposed investment on land, plant, and machinery was stated as Rs. 3.72 crores. On January 4, 1969 Shri Gandhi had a discussion with Shri N. N. Wanchoo, then Secretary, Ministry of Industrial Development and Company Affairs; some DGTD officials, M. M. Vadi, N. T. Gopala Iyengar and B. S. V. Rao were present during the discussion. Shri Gandhi suggested he might be given a letter of intent before the prototype of his car was ready, but he was told that it would be better if the DGTD officials had a look at the prototype which, Shri Gandhi assured, would be ready in about a month's time. Shri Gandhi continued to have discussions with Shri Bhanu Prakash Singh and the DGTD officials in January and February 1969. Deposing before the Commission R. V. Subrahmanian said that Shri Fakharuddin Ali Ahmed who was then Minister of Industrial Development had summoned him to his residence to inquire as to

"what was being done" about Sanjay Gandhi's application and why they were "taking so much time". Sanjay Gandhi was present when Subrahmanian was being questioned by the Minister.

In the meantime at a meeting held on January 16, 1969 the Planning Commission took the view that on account of the constraint on resources the car project could not be included in the Fourth Five Year Plan. However, at the instance of Shri N. Subrahmanayam, Secretary (Heavy Industries), the Planning Commission agreed to the matter being held over for further discussion. On January 25, 1969 the Minister of Industrial Development and Company Affairs, Shri Fakharuddin Ali Ahmed wrote to Prime Minister Shrimati Indira Gandhi pleading for a new unit in the public sector. In her letter dated February 10, 1969 the Prime Minister wrote back to say that the public sector car project could not be viewed in isolation having regard to the constraint on resources, adding that she had no objection to the matter being considered in the full meeting of the Planning Commission and thereafter in the Cabinet. The Minister also wrote to Shri Morarji Desai, who was then Deputy Prime Minister, seeking his help for the inclusion of the project in the Fourth Five Year Plan. The Deputy Prime Minister in his reply dated April 5, 1969 suggested that the officials of the Finance Ministry, Planning Commission, and the Ministry of Heavy Industry could review the position and prepare a note for consideration by the Cabinet.

A meeting of the officials as suggested by the Deputy Prime Minister was held on April 30, 1969. As there was no unanimity in the meeting, it was agreed that the matter should be placed before the Cabinet. A draft summary for the Cabinet was accordingly prepared in the Ministry of Industrial Development, Internal Trade and Company Affairs (Department of Industrial Development), on the subject of the establishment of additional capacity for the manufacture of passenger cars which was forwarded to the Ministry of Finance and Planning Commission for their comments. Shri Fakharuddin Ali Ahmed forwarded on October 8, 1969 a copy of the draft summary to Prime Minister Shrimati Indira Gandhi who was holding the Finance portfolio at the time. Shri Ahmed wrote to her that considering the importance of the matter, he thought her personal attention should be drawn to it and that he would be glad to discuss the matter with her after she had seen the papers.

It may be recalled that on January 4, 1969 Shri Sanjay Gandhi had told the DGTD officials that the prototype of his car would be ready in a month. When more than two months passed and the prototype was still not ready, Shri S. R. Kapur, Under Secretary in the Department of Heavy Industry, Ministry of Steel and Heavy Industry, wrote to Shri Gandhi on March 26, 1969 requesting him to inform the Ministry about the progress made in the manufacture of the prototype which, he said, would be inspected by the officials of the Ministry. In his reply

Shri Sanjay Gandhi informed the Ministry that the modifications suggested by the DGTD officials were being carried out and the prototype was expected to be ready by the middle of April. However, the officials did not have a glimpse of the prototype before October 1969. It appears from a note recorded by B. S. V. Rao that on October 3, 1969 Shri Sanjay Gandhi showed the prototype to the DGTD officials at the residence of Deputy Minister Shri Bhanu Prakash Singh, where, besides the Deputy Minister and R. V. Subrahmanian, Dr. B. D. Kalelkar, Director General; M. M. Vadi, Senior Industrial Adviser; N. T. Gopala Iyengar, Industrial Adviser; and B. S. V. Rao, Development Officer, of the DGTD were present. Shri Sanjay Gandhi told them that the prototype which was being shown to them was an improved version of the earlier ones he claimed to have made. He further stated that the prototype had a 24 H.P. engine, rear mounted, with non-synchromesh gear box and centrifugal clutch. It had two doors. Shri Gandhi took out the DGTD officials in the prototype for a short run of about a mile in the vicinity. B. S. V. Rao's note says that the vehicle "as driven was noisy" and records the improvements and modifications that Shri Gandhi proposed to make. The note also records the advice given by the Director General to Shri Sanjay Gandhi to study the availability and the prices of some of the ancillaries which the latter proposed to use.

The Statesman and the Hindustan Times of October 4, 1969 devoted considerable space on the Maruti car. The staff reporter of the Statesman wrote: "Its shape and tiny tyres at once make it look like the first cousin of the Austin Mini ... 'But it is a very different car; it is a car made entirely in India, all the parts were made here', explains the maker of the car, Mr. Sanjay Gandhi. ... The reporters saw the green coloured car on the lawns of the Prime Minister's house on Friday morning. The lid in the rear that hides the engine had been opened to reveal the sleek and compact arrangement of the machine. Mr. Gandhi is quite frank about one thing: the car will take another two years to be perfected".

The Hindustan Times correspondent in his report said: "Her name is Maruti—and she may as well be India's first small car.... It was Maruti's first introduction to the officials of the Ministry of Industrial Development and Company Affairs. To watch Maruti in her true colours and form, the officials from the Ministry were taken for a spin. They seemed pretty pleased with her. If all goes well and Maruti fits the bill, India's first small car might be on the road in two years". The correspondent could not possibly have been aware of Shri B. S. V. Rao's note when he thought that the officials were pretty pleased with the car in which they were taken for a spin. Shri R. V. Subrahmanian in his deposition admits that this kind of special treatment was not given to the other applicants for licence.

Shri Sanjay Gandhi had further discussions with the DGTD officials on the 4th, 6th and 8th October, 1969 during which he was advised to undertake a detailed survey of the availability and the prices of many of the ancillaries which he proposed to use.

As a result of all these deliberations Shri Sanjay Gandhi came up with a revised proposal towards the end of October 1969. The revised project report was scrutinized by B. S. V. Rao who prepared a summary for the Licensing Committee on November 20, 1969. It would appear from this summary that Shri Gandhi had raised the proposed investment on plant and machinery from Rs. 3.72 crores to Rs. 4.63 crores. The recommendation of the Technical Adviser annexed to the summary mentions that the proposed car was of a two cylinder design, the engine fitted in the prototype was an air-cooled one developing 24 H.P., the car was to have ultimately a synchromesh gear box instead of the crash type which the prototype had, and that the centrifugal clutch was to give way to a plate clutch in the final model. The investment was still considered too low. It was noted that the production was to be on a phased programme of 10,000 cars in three years going up to 50,000 during a further period of four years. Doubt was raised on the feasibility of producing the car at the price indicated, Rs. 6693. Shri M. M. Vadi, Senior Industrial Adviser also emphasized the point that the investment was considerably under-estimated. He was further apprehensive of the use of two stroke engine which according to him was more an exception than general practice among the small car manufacturers of the world.

There is a note on the file recorded by S. R. Kapur on December 10, 1969 enumerating the main features of Sanjay Gandhi's car project and describing the scheme as completely indigenous in know-how, personnel and material. The note reproduced the main shortcomings in the scheme found by DGTD but added that the conception and design of the car as ultimately thought of by Shri Gandhi could be considered satisfactory. The note mentioned that there were 17 schemes before the Ministry and that a decision on the schemes which were based on indigenous design and materials would have to be taken together. The note referred to the draft summary for the Cabinet already in circulation and ended by saying: "It is now for consideration whether we may await the decision of the Cabinet on the paper to be placed before it shortly or whether, acting on the earlier decision of the Cabinet of July 1966, the schemes which do not involve any foreign collaboration or requests for foreign exchange for the import of either capital goods or components may be placed before the Licensing Committee for approval?" The awaited decision of the Cabinet was on the question whether it was possible to set up a new unit in the public sector for manufacturing passenger cars. On July 28, 1966 the Cabinet did not take any definite decision and only desired that the possibility of setting up indigenous capacity in the private sector should also be examined. Thereafter in August 1966 Shri D. Sanjivayya's statement in Rajya Sabha gave first preference to the public sector. In this context the keenness appearing in Kapur's note to place the proposals from the private sector before the Licensing Committee without waiting for the Cabinet decision seems unusual. At the end of Kapur's note R. V. Subrahmanian, Joint Secretary, added in his own hand that before the proposal to manufacture passenger cars in

the public sector was considered by the Cabinet, the Minister of Industrial Development Shri Fakhruddin Ali Ahmed proposed to discuss the subject with the Prime Minister.

In finalizing the summary for the Cabinet, the Ministry of Industrial Development disagreed with the suggestion of the Finance Ministry to delete a paragraph proposing to seek approval of the Cabinet for the issue of letters of intent to parties who came forward with proposals based completely on indigenous design and with no request for import or allocation of foreign exchange, but accepted the suggestion of the Planning Commission that the letter of intent should be issued to a party only after a prototype had been produced and tested for roadworthiness. Shri Dinesh Singh, who was then the Minister of Industrial Development and Internal Trade, modified this condition by requiring it to be applied before an industrial licence was issued and not at the stage of issue of the letter of intent. On August 7, 1970 a meeting of the Cabinet was held presided over by Prime Minister Shrimati Indira Gandhi to consider the proposals put up by the Ministry of Industrial Development. The Cabinet approved the proposals and directed the Ministry to initiate detailed studies on the most economic way of establishing the additional production capacity as well as the ways and means of financing the same. The Ministry was also given a free hand to select a suitable model for the purpose and to initiate discussions with all interested parties, foreign or Indian. The Cabinet also decided to permit the manufacture of passenger cars by parties in the private sector whose proposals were based on completely indigenous designs without requiring imports or allocation of foreign exchange. This however was to be without prejudice to the establishment of additional capacity for 50,000 cars in the public sector. Shrimati Indira Gandhi who presided over the deliberations must have known that her son Shri Sanjay Gandhi had applied for an industrial licence to manufacture cars and that his proposal claimed to fulfil the conditions which the Cabinet prescribed. Shri Sanjay Gandhi was living with his mother at 1, Safdarjang Road. Apart from that the Lok Sabha was informed of the nature of Shri Gandhi's proposal more than once. On November 12, 1968 Shri Raghunath Reddy, Minister of State in the Ministry of Industrial Development and Company Affairs, told the Lok Sabha in reply to a question whether Shri Sanjay Gandhi had submitted a proposal to Government for a licence to manufacture small car that "...this is the only proposal which is based on a completely indigenous utilisation of all the available equipment here without any foreign exchange component or foreign equipment". About a week later, on November 20, 1968 Shri Fakhruddin Ali Ahmed, Minister of Industrial Development, informed the Lok Sabha that Shri Sanjay Gandhi had submitted "a sort of project report to the Government" in which it was indicated "that he can manufacture a car without import of foreign components from outside" and that the Government was considering this proposal.

On August 10, 1970 Shri Dinesh Singh, Minister of Industrial Development and Internal Trade, announced in both Houses of Parliament the decision

taken by the Government. He stated that the Government had decided "in principle, to the creation of the additional capacity of 50,000 cars per annum in the public sector based on a proven foreign design", that the ministry "will now initiate the necessary detailed studies on the most economic way of establishing this additional production capacity in the public sector, as also the ways and means of financing the project". After giving some more details as to how the Government proposed to proceed so far as the public sector project was concerned, the Minister referred to the proposals from the private parties. "Government have also received", he said, "a number of proposals from the private parties for taking up the manufacture of passenger cars in the private sector. Some of these parties claim that they are in a position to manufacture cars based on completely indigenous sources". In fact till then there was only one party, Shri Sanjay Gandhi, who had made this claim; there was another, Shri M. Madan Mohan Rao, but his claim was somewhat ambiguous. Shri Dinesh Singh concluded his statement with these words:

"With a view to encouraging the growth of indigenous talent and resources, Government have decided to issue Letters of Intent to such of the parties in the private sector as are prepared to take up the manufacture of cars based on completely indigenous designs and without requiring imports of or allocation of foreign exchange".

What Government meant by "indigenous" when it insisted that the car proposed to be manufactured in the private sector must be wholly indigenous, was made clear by different Ministers who had to deal with this question at different times. To a query made in Rajya Sabha on July 28, 1966 as to whether an automobile engineer from Kerala had manufactured a small car entirely with indigenous material, Shri D. Sanjivayya, Minister of Industry, said: "It is not known whether all the locally purchased components are indigenous. It is therefore difficult to assert that the car has been made entirely with indigenous materials". Shri C. Subramaniam, Minister of Industrial Development, in the course of a debate in Lok Sabha on December 22, 1972 on the policy of Government in regard to manufacture of car indicated that an indigenous car should be one fabricated from the materials in the country. Shri Dinesh Singh in his evidence before the Commission agreed with the views expressed by Shri Sanjivayya and Shri C. Subramaniam. He added that indigenous machinery, components and materials "would mean those that are actually produced in India", that it would be wrong to describe as indigenous imported materials available from the established importers in the country and it was not the intention of the Government to treat such materials as indigenous. Shri B. D. Pande, who was Secretary in the Planning Commission in 1969 and Secretary in the Ministry of Industrial Development and Heavy Industry from February 10, 1970 to April 28, 1971 has also explained in his statement to the Commission that he considered a "completely indigenous car as one based on indigenous technical know-how using indigenous machine, tools and components".

On August 11, 1970, the day after the Minister's statement in Parliament, the office of the Ministry of Industrial Development put up a draft summary for the Licensing Committee for approval with this note: "We have several applications for grant of licence for manufacture of small car from parties in the private sector. Two of these schemes are totally indigenous, namely from Shri Sanjay Gandhi and M. Madan Mohan Rao. A draft summary for the Licensing Committee proposing to grant letters of intent to these parties and rejecting applications since they are not indigenous is put up for approval". As already stated, M. Madan Mohan Rao's scheme was a little ambiguous. In the letter forwarding his application he confirmed that "no foreign collaboration, import of capital equipment... are involved for promoting this undertaking", but his feasibility report disclosed that he wanted his car designs to be examined by an American auto design expert. It appears that before he formally applied for industrial licence on September 15, 1969, M. Madan Mohan Rao wrote a letter to Shri Fakhruddin Ali Ahmed, Minister of Industrial Development, on August 30, 1969 setting out the salient features of his car project enclosing copy of a preliminary project report. In the letter to the Minister it was claimed that "the project envisages utilization of indigenous know-how and no foreign exchange is needed either for capital equipment, product and process design, plant layout or raw and manufactured material", in the preliminary project report it was said: "since there is no authority in India who can approve basic design, the same when formulated would be sent to various non-profit automotive research centres in U.S.A. and their general approval obtained before adopting the same for mass production".

The existence of the Licensing Committee is traceable to section 14 of the Industrial (Development and Regulation) Act, 1951 which says, *inter alia*, that before granting any licence enabling any person to establish a new industrial undertaking, the Central Government may appoint an authority to make a full and complete investigation in respect of applications received in this behalf and report to it the result of such investigation. The authority so appointed is required to follow the prescribed procedure. The procedure is laid down in rules 10, 11 and 12 of the Registration and Licensing Rules, 1952. Rule 10 deals with the constitution of the Licensing Committee. Rule 11 provides that after such investigation as may be necessary the Licensing Committee shall submit a report to the concerned Ministry. Rule 12 states that the report should contain, among other matters, recommendations regarding capital and its structure, capacity of the plant to be installed, availability of technical and other skilled personnel required, and collaboration if any with foreign manufacturers.

The draft summary for the Licensing Committee was prepared in pursuance of the statement made by the Minister in Parliament. On the same day, August 11, a telegram was sent to M. Madan Mohan Rao, asking him to meet the Joint Secretary, R. V. Subrahmanian, on the 17th or 18th August in con-

nection with his scheme. According to Subrahmanian, Rao was summoned to explain the discrepancy between his application and his project report. Rao also indicated in the report that it would not be advisable to bring out a prototype of the proposed car, nor it was possible for him to do so. In his deposition he explains this by saying that before the "basic design drawing" was developed, it was impossible for anyone to come out with a prototype of a car which could be subsequently successfully manufactured. Rao's project report also disclosed a scheme of joint venture with Malaysia for tyres and tubes, and with U.A.R. for ball and roller bearings as these items were likely to be in short supply.

M. Madan Mohan Rao came to New Delhi from Madras on the 17th and met R. V. Subrahmanian at his office in Udyog Bhawan. S. R. Kapur, Under Secretary in the Ministry, B. S. V. Rao, Development Officer, DGTD, and N. T. Gopala Iyengar, Industrial Adviser, DGTD were present at the time. According to M. Madan Mohan Rao, Shri Subrahmanian pressurized him to drop the three conditions mentioned in his techno-economic feasibility report, viz. joint venture with Malaysia and U.A.R., non-production of prototype, and having his car design approved by an expert in U.S.A. Rao says that he was made to address a letter to the Joint Secretary waiving the conditions. As regards the third condition he stated in the letter that if foreign exchange was not permitted for the purpose, he would get his design checked by an indigenous institution. Rao says that during the entire discussion no indication was given that the capacity of 75,000 cars a year proposed by him in his application was likely to be reduced. Subrahmanian denies pressurizing Rao. His version is that the "whole idea... was to ensure" that Rao was not "excluded because of the discrepancy between the proposal and the project report". In his deposition Rao has said that he described his scheme as indigenous because he did not consider examination by a foreign expert of the design drawings developed by him as amounting to foreign consultancy. He has also pointed out that the prescribed form in which he made his application had no column for foreign consultancy. But that does not seem to be so important because of the stand he had taken; in his opinion what he intended to do did not amount to foreign consultancy.

The draft summary listed the particulars of the ten applications for the grant of industrial licence under the Industries (Development and Regulation) Act, 1951 in a tabular form. The ten parties mentioned in the summary were :

1. Mysore State Industrial Investment & Development Corporation.
2. Hindustan Auto Products, Delhi.
3. Manubhai Thakkar, Baroda.
4. M/s. B. R. Chokshi & Co., Ahmedabad.
5. M/s. Ganesh Renault, Lucknow.
6. M/s. Bhooviman Limited, New Delhi.
7. M/s. Arvind Automobiles, Trivandrum.
8. Sanjay Gandhi, New Delhi.

9. Kerala State Industrial Development Corporation, Trivandrum.

10. M. Madan Mohan Rao, Madras.

Referring to the schemes of the parties 1, 2, 3, 5 and 6 which involved foreign collaboration and those of the parties 4, 7 and 9 which involved import of either capital goods or components and raw materials, it was pointed out in the summary that these 8 schemes did not qualify according to the guidelines. The two remaining schemes, those of Shri Sanjay Gandhi and Shri Madan Mohan Rao, based completely on indigenous know-how and materials were the only two proposals that satisfied the conditions. The summary also mentioned the recent discussions held with these two parties. It was stated that Sanjay Gandhi claimed to have developed a prototype of the car except the engine, that he was working on the prototype of an engine of his own design and he hoped to evolve the final prototype shortly and that by the end of the third year from the date of approval of his scheme he would be able to achieve the production target of 7500 cars per annum reaching the optimum production target of 50,000 cars per annum within the next two years. To a suggestion that it would be more realistic to plan for a capacity lower than what he had applied for and for a slower build up of the production volume, Sanjay Gandhi, it was stated, claimed that he would be installing from the very beginning equipment and machinery capable of the maximum production, and as such he wanted the full capacity applied for to be allowed. From Rao it was gathered that he would require six months for producing a suitable design, about a year for preparing the working designs which he wanted to be approved by a design institution in India or abroad before starting on the prototype, that with initial production of 24,000 cars per annum he expected to reach the optimum production of 75,000 cars per annum by the end of the sixth year. He made it clear that he meant to produce a car suitable for rural areas which would not be very sophisticated in design. It was observed in the summary that Rao's plan to produce 75,000 cars per annum was over-ambitious and that it would be realistic to approve his scheme for an initial capacity of 10,000 cars per annum going upto 20,000 to 25,000 cars per annum ultimately. The summary did not disclose the basis on which the conclusion as to capacity was reached in Rao's case.

It is not disputed that usually such summaries for Licensing Committee include comments by the various scrutinizing agencies like DGTD and others. In the field of small car project the main scrutinizing agency was the DGTD. I have already referred to their comments on Shri Gandhi's proposal. The summary prepared in this case however did not incorporate comments of any of the scrutinizing agencies. The explanation offered by S. R. Kapur, Under Secretary, Ministry of Industrial Development, which was endorsed by M. M. Vadi, Senior Industrial Adviser, DGTD and T. Swaminathan, Secretary, Ministry of Industrial Development, is that the whole matter was being viewed only in the context of the totally indigenous nature of the proposals and as such the

comments of the DGTD and other scrutinizing agencies were not required to be forwarded to the Licensing Committee.

The Licensing Committee met on August 31, 1970 under the Chairmanship of Shri T. Swaminathan, Secretary, Ministry of Industrial Development and Internal Trade. Among other members who attended the meeting were R. V. Subrahmanian, N. Radhakrishnan, Deputy Secretary, S. R. Kapur and M. M. Vadi of DGTD. The Licensing Committee accepted fully the recommendations of the Ministry except for raising the capacity in the case of Madan Mohan Rao to 25,000 cars per annum outright; the Ministry had suggested 10,000 cars per annum initially going upto 25,000 ultimately.

Shri Dinesh Singh, Minister of Industrial Development, gave his approval to the recommendations of the Licensing Committee on September 18. Letters of intent were issued to these two parties on September 30, 1970 for the establishment of new industrial undertakings for the manufacture of passenger cars, in the case of Sanjay Gandhi for the annual capacity of 50,000 cars at Faridabad in Haryana, in the case of Madan Mohan Rao for an annual capacity of 25,000 cars at Nagpur in Maharashtra. In the meantime Prime Minister Shrimati Indira Gandhi in a speech made in Ahmedabad on September 23, referred to her son's car project. A summary of the speech appeared in the Hindustan Times next day under the caption "Mother's Praise". It is as follows :

"Prime Minister, Mrs. Indira Gandhi, today commended the enterprising spirit of her son, Mr. Sanjay Gandhi, in putting forward a proposal for a small car, completely Indian.

Mrs. Gandhi said she could not say whether a licence would be granted to him.

She had been asking all young men to be enterprising even before her son had taken to designing a car. Her son was a delicate young man and with whatever money and energy he had, he modelled a car, not a posh one, but fairly comfortable and suitable to Indian conditions. It would suit the middle class, she added".

The letter of intent issued imposed four conditions:

- (1) No foreign collaboration or foreign consultancy arrangements will be permitted.
- (2) No import of capital goods will be allowed.
- (3) No import of components/raw materials will be allowed.
- (4) Before the letter of intent is converted into a licence, prototype(s) will be developed and got tested and approved for roadworthiness by an authority appointed for the purpose by Government.

The letters of intent were valid for six months. It may be stated here that sometime after the letters of

intent were issued to Sanjay Gandhi and Madan Mohan Rao, other applicants who were prepared to revise their schemes to make them wholly indigenous were also granted letters of intent.

Sanjay Gandhi wrote to S. R. Kapur, Under Secretary, Ministry of Industrial Development, accepting the letter of intent. In this letter without date, which Kapur received on October 5, 1970, Sanjay Gandhi proposed to set up his factory at Gurgaon instead of Faridabad as stated in his application for licence. This request was allowed. On October 19, 1970 Sanjay Gandhi again wrote to the Under Secretary seeking clarification of the condition banning import of raw material and asking for extension of the validity of the letter of intent to 18 months. The matter was processed in less than a week and Kapur prepared a note agreeing to the relaxations sought for by Sanjay Gandhi. In his note Kapur emphasized that it was the normal policy of the Government to allow import of raw materials produced in the country if they were in short supply. R. V. Subrahmanian, Joint Secretary, agreed with this view but he thought that acceptance of this request would mean modification of a condition imposed by the Licensing Committee. T. Swaminathan, Secretary, Industrial Development, decided that the matter should be brought before the Licensing Committee. The Licensing Committee considered the matter on October 26, 1970 and recommended an amendment of the condition as asked for by Sanjay Gandhi. The recommendation was approved by the Minister and on November 7, 1970 Sanjay Gandhi was informed that his request had been granted. Along with the intimation sent to Sanjay Gandhi, Madan Mohan Rao was also informed that following the normal Government Policy any request for import of raw materials like steel, normally available in the country but temporarily in short supply, would be considered at the proper time within the framework of the import policy in force at that time in partial modification of condition No. 3 of the letter of intent. The validity of the letter of intent issued to him was also extended from six months to eighteen months.

On November 6, 1970, the day before the Ministry communicated to Sanjay Gandhi that his request for relaxation of the condition prohibiting import of raw materials had been accepted, M. Madan Mohan Rao wrote to Government seeking permission to get the design of his car examined by Mr. Julius E. Witzky, South West Research Institute, San Antonio, U.S.A. In this letter Rao had drawn the attention of the Ministry to his earlier letter dated October 29, 1969 wherein also he had asked for such permission which was waived in his letter of August 17, 1970. Another request that Rao made was in respect of the capacity of 25,000 cars per annum sanctioned in his case; he wanted the capacity to be raised to 75,000 cars per annum as originally envisaged in his proposal. This letter was received by R. V. Subrahmanian, Joint Secretary, on November 12, 1970 and it was processed in the Ministry. The note on this letter was put up after nearly two months on January 12, 1971 recommending rejection of the requests made by Rao. It was pointed out that having the design examined in U.S.A. involved foreign exchange, and as regards the

request for expansion of the capacity, it was said that this could be considered only after Rao had achieved the capacity of 25,000 cars per annum. R. V. Subrahmanian who saw the note on January 23, 1971 expressed the opinion that release of foreign exchange for having drawings and designs checked abroad, would amount to agreeing to foreign consultancy arrangements which was contrary to the Government policy. As regards the permission sought for expanding the production capacity, Subrahmanian thought that this could be considered only after a substantial portion of the capacity approved earlier had been achieved. B. D. Pande, then Secretary in the Ministry, approved the recommendations and so did Shri Dinesh Singh, Minister of Industry. Shri Dinesh Singh had earlier given Rao the impression that his case would be favourably considered when Rao met the Minister in Madras sometime in January 1971. The Ministry of Industry wrote to Rao on March 15, 1971 that his requests could not be accepted. Rao says that "in view of the attitude of the Ministry" he "asked for permission to import 4 foreign small cars to study and standardise certain components and mechanism" and this request was also turned down. Rao could not therefore proceed further than preparation of the drawings. According to Rao "the Ministry of Industry was more particular on the production of a hand made prototype",—"the very idea" with which he was "in disagreement from the beginning". In Rao's opinion "at the initial stage evaluation of my design drawings . . . was more valuable than the testing of a hand made prototype".

After the relaxation of the condition relating to the restriction on import of raw materials, and the grant of permission to change the location of his factory from Faridabad to Gurgaon and extension of the validity of the period of the letter of intent from six months to eighteen months, Sanjay Gandhi wrote to the Deputy Controller, Exchange Control Deptt., Reserve Bank of India, on March 29, 1972 stating that he proposed to visit some of the European countries to inspect various car manufacturing units. It was said that this would be a study tour to enable him to produce the prototypes of his car and submit a complete project report to the Government. Next day he made an application to the Reserve Bank of India for release of foreign exchange for his visit to Czechoslovakia, West Germany and U.K. for a period of one week in each of these countries for the purpose of studying the car plants and the manufacturing technique. The date of his proposed departure was April 3, 1972. On the very day he made the application, March 30, 1972, Sanjay Gandhi was allowed £ 126 for two weeks' stay in West Germany and U.K. and Rs. 1134 for one week in Czechoslovakia. Shri Y. B. Chavan, then Finance Minister, stated in Parliament on May 15, 1973 that the foreign exchange was released to Sanjay Gandhi for a study tour-cum-training in motor car manufacturing units, that the release of foreign exchange was to facilitate submission of prototypes to the Government and was not in violation of any of the conditions imposed in the letter of intent.

I have referred to the four conditions mentioned in the letter of intent. Under the fourth condition, the holder of the letter of intent was required to develop

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a prototype and have it tested and approved for road-worthiness by an authority appointed for the purpose by the Government before the letter of intent was converted into an industrial licence. The test of road-worthiness was considered essential in a passenger car to avoid risk to human life. With the approval of the Ministry of Defence, the Ministry of Industrial Development nominated the vehicle Research and Development Establishment (hereinafter referred to as VRDE) at Ahmednagar, an establishment under the Defence Ministry, as the authority for carrying out the tests for roadworthiness. On January 6, 1972 the Ministry informed holders of the letters of intent about the nomination of VRDE as the testing agency and asked them to get in touch with VRDE as soon as the prototypes were ready and furnish such information as was required by VRDE. Maruti Limited which was incorporated on June 4, 1971 wrote to VRDE on January 12, 1972 wanting to know the broad details of the tests proposed to be conducted and stated that the prototype would be ready for trial by the end of March 1972. On February 17, 1972 VRDE forwarded to Maruti Limited the car specification form for filling in the data/specifications and asked them to return it as early as possible. They were also asked to send a complete set of Operator and Workshop Manual and Parts Catalogue. In the letter VRDE made it clear that apart from checking the performance of the cars, they would also conduct a reliability test. Maruti Limited wrote back on March 23, 1972 accepting the terms and conditions of the tests. On March 28 VRDE asked Maruti Limited to furnish further information regarding the procurement of assemblies/components used in the prototype. In their reply dated April 12, 1972 Maruti claimed that the prototype car was "totally developed" by them with the exception of proprietary items such as dynamo starter, coil, spark plugs, tyres, tubes etc., that the plant and machinery had been obtained from local sources, and that the technical know-how was also indigenous. On May 20, 1972 Maruti wrote to VRDE for details of test schedule/data according to which the proposed trials were to be conducted. It appears that on the same day Maruti Limited wrote a letter to DGTD stating that they had not received the test data and schedule from VRDE and requesting DGTD for alternative testing facility on the ground that the tests proposed by VRDE were unnecessarily stiff for passenger cars. A copy of this letter was forwarded to VRDE by DGTD on May 31. VRDE replying on June 7, 1972 to Maruti's letter drew the company's attention to VRDE's letter of February 17 in which they had indicated the type of trials proposed, and again emphasized that the prototype would be subjected to reliability mileage test.

In the meantime on May 26, 1972 the Directorate of Vehicles (Research & Development) sent instructions to VRDE as to the procedure to be adopted for conducting the trials. Mileage for the reliability test was fixed at 30,000 Kms. and performance trials were to be repeated on completion of every 10,000 Kms. It was also indicated that the reliability mileage of 30,000 Kms. should be run in the following sequence :

- (i) Initial performance trials.
- (ii) Reliability for 10,000 Kms. over various terrains.

- (iii) Repeat performance trials.
- (iv) Continue reliability by another 10,000 Kms. and repeat performance trials.
- (v) Complete the reliability for 10,000 Kms. and repeat performance tests.
- (vi) Dynamometer test the engine on completion of first 10,000 Kms.
- (vii) Strip examine the engine, the gear box and differential and note down the wear pattern on completion of 30,000 Kms.

The difference between the performance test and the reliability test was explained by Shri A. S. Jayaraman, Director of Vehicles (Research and Development), Ministry of Defence : "The object [of reliability mileage test] is to bring out the defects which will only come to light after it has picked up certain mileage to highlight the defects, the performance test will highlight the performance characteristics of the vehicle. That can be found in a short time. Later on we continue running the car under varying conditions to see whether the various components built in stand up to the rigours of the test. Do they yield or fail etc. which will highlight the reliability . . . We repeat the performance test once in 10,000 Kms. to verify whether there is any drop in performance". He added that it was not possible to come to a conclusion as to roadworthiness merely on the performance tests.

On June 26, 1972, A. S. Jayaraman wrote to Shri B. S. V. Rao, Development Officer, DGTD, saying that Maruti's complaints were only an attempt to find an excuse to send their prototype to an alternative testing agency. In spite of the clarification given by VRDE in their letter dated June 7, 1972 Maruti Limited continued writing to them for details of the test schedule and data. In their letter of July 24, 1972 to Maruti Limited, VRDE listed in detail the tests they proposed to adopt. A copy of the letter was sent by VRDE to Ministry of Industrial Development. However, on August 1, 1972 Maruti Limited asked for more details regarding the methodology of the tests. Over the controversy on the method of testing a meeting was held on September 28, 1972 in the office of B. S. V. Rao, Development Officer, DGTD, between him and the representatives of Maruti Limited, Sanjay Gandhi who was present at the meeting expressed concern over the delay that would be caused if the prototype was sent to VRDE for performance and reliability tests and wanted from VRDE the methodology of the proposed tests in writing. Shri Gandhi suggested that the trials might be held by his company in Delhi in the presence of an observer chosen by the Ministry of Industrial Development for the purpose.

A series of meetings with the representatives of Maruti Ltd., followed in October in the room of K. B. Rao, Director General, Technical Development. The first of them, held on October 3, was attended by R. V. Subrahmanian, now Additional Secretary in the Ministry of Industrial Development. It was agreed that the trials should be held by VRDE. Another meeting was held on October 5, where R. V. Subrahmanian and A. S. Jayaraman, Director of Vehicles (Research

and Development) were present. Following the decision taken at this meeting, the methods of conducting the various tests were communicated to Maruti Limited on October 10, 1972. The next meeting held on October 11, was attended among others by R. V. Subrahmanian, N. T. Gopala Iyengar, Industrial Adviser, Automobile Division, DGTD, A. S. Jayaraman and Brig. R. S. Chawla, Director, VRDE, Ahmednagar, and Sanjay Gandhi. R. V. Subrahmanian made a request that a report might be sent to the Ministry as soon as each performance test was concluded.

On October 18, 1972 the minutes of the meetings were forwarded by S. S. Khosla, Assistant Development Officer (Auto), DGTD, to A. S. Jayaraman. It appears from the minutes of the meetings held on October 3, 4 and 5, 1972 that the following conclusions which were described as "tentative" were reached in those meetings :

- (1) VRDE should indicate the manner in which the various tests were proposed to be conducted to Maruti Limited.
- (2) It was necessary that these tests should be completed in the shortest possible time.
- (3) Result of the performance test made within two weeks after the delivery of the prototype would constitute the first instalment of VRDE's report.
- (4) The reliability test contemplated a run of 30,000 Kms. and test readings taken at the end of every 10,000 Kms. According to VRDE, taking the average mileage for the test at 400—500 Kms. per day it would take about 10 to 12 weeks to be completed.
- (5) "As a means of reducing the time factor, after receipt of the report on the first 10,000 Kms., a view could be taken on the reliability of the vehicle with reference to the condition No. 4 of the letter of intent to M/s. Maruti Limited, at same time further running could continue and reports submitted at the appropriate time"

The minutes conclude with a proposal for a "further meeting" to be held on October 11, 1972 in the office of K. B. Rao, Director General, Technical Development. The final conclusions reached in the meeting of October 11, as incorporated in the note dated October 21, 1972 of N. T. Gopala Iyengar, shows that the question whether a view could be taken on the reliability of the vehicle after the completion of first 10,000 Kms. was not touched on, and only a time schedule for carrying out the tests was laid down.

Maruti Limited did not send the prototype car for tests to VRDE by the end of October 1972 which they had earlier agreed to do. On December 14 and 16, 1972 Sanjay Gandhi made representations to the Ministry of Industrial Development that the condition requiring the testing of the prototype by VRDE be withdrawn. V. P. Gupta, Under Secretary, dealing with the said representations in his note dated

January 6, 1973 referred to the history of the dispute between Maruti Limited and VRDE including the decisions taken in the meetings held in October 1972 and observed that if Maruti were granted an industrial licence before completion of the tests "other holders of letter of intent who have yet to develop prototype would also press for immediate grant of an industrial licence to them.....". His recommendation was : "In view of these likely repercussions, we may not perhaps waive the conditions regarding testing of prototype in any one case, particularly as the basic objective in the stipulation has been to avoid the attendant danger to human life if defective vehicles are allowed to ply on the roads. It is, therefore, suggested that we may inform M/s. Maruti Limited that their letter of intent will be converted into an industrial licence only after their prototype has been approved by the VRDE, Ahmednagar, and that they should take necessary action to get these prototype tested as early as possible". V. P. Gupta's recommendation was signed by N. Radhakrishnan, Deputy Secretary, S. M. Ghosh, Joint Secretary, R. V. Subrahmanian, Additional Secretary, and was finally approved by Shri C. Subramaniam, Minister of Industrial Development, on January 10, 1973. On January 19, 1973 Ministry of Industrial Development informed Maruti Limited that their request for conversion of the letter of intent into an industrial licence pending approval of their prototype car by VRDE for roadworthiness could not be accepted.

In the meantime on January 17, 1973 Maruti Limited had addressed another letter to R. V. Subrahmanian, with copy to the Minister, trying to avoid the tests by saying that it was not stipulated in the letter of intent that the vehicle would be tested by VRDE, Ahmednagar. Shri S. M. Ghosh, Joint Secretary, dealing with the letter recommended rejection of the request. R. V. Subrahmanian, Additional Secretary, having seen Ghosh's note marked it to the Minister who signed it in token of his approval on January 29, 1973. Accordingly on February 2, 1973 the Ministry of Industrial Development wrote to Maruti Limited pointing out that VRDE, Ahmednagar, had been designated as the testing agency in accordance with condition No. 4 of the letter of intent and the letter of intent could not be converted into an industrial licence pending approval of the prototype car for its roadworthiness by VRDE. On April 16, 1973 the Ministry of Heavy Industry while extending the period of the letter of intent up to December 31, 1973, again informed Maruti Limited that they "would be required to fulfil all the conditions of the letter of intent including getting the prototype of their vehicle cleared by the VRDE". A copy of this communication was sent by the Ministry to VRDE.

The 'tentative' decision that "a view could be taken on the reliability of the vehicle with reference to the condition No. 4" on receipt of the first interim report from VRDE seems a little ambiguous; it did not state clearly who would take the view. However, this tentative decision does not appear to have been finally accepted. It did not figure in the discussions held in the meeting of October 11, 1972 which was

called "to arrive at a final decision". A. S. Jayaraman says that VRDE had never agreed to any change in the stand taken by them that roadworthiness certificate would be given only on completion of the reliability mileage of 30,000 kilometres. According to him the Ministry could take any 'view' they liked but VRDE was not a party to it; however, it is not explained why VRDE allowed such a decision, may be tentative, to be recorded in the minutes without having their own stand also recorded clearly. Shri V. P. Gupta, Under Secretary, who in his note dated January 6, 1973 recommended rejection of Maruti's request for an industrial licence before their prototype car was approved by VRDE, was also under the impression, as would appear from the note itself, that "the expectation was that the results of the performance tests would be available by the end of November 1972 on the basis of which Government could take a decision regarding the grant of an industrial licence to M/s. Maruti Ltd. pending completion of the reliability tests". On the minutes however, it is difficult to hold that the 'view' contemplated could be taken by the Ministry. The minutes speak of "a view" which "could be taken on the reliability of the vehicle with reference to the condition No. 4", and the 'view', if it is to be in accordance with condition No. 4, had to be of the testing agency nominated by the Government, i.e. VRDE. It is possible that VRDE officials who had stood firm on reliability mileage of 30,000 Kms. being completed, did not attach too much importance to the "tentative" conclusion as recorded in the minutes and did not give it a serious thought. R. V. Subrahmanian, Additional Secretary, in his evidence has said that it was VRDE who could take the view. The Minister of Industrial Development at the time, Shri C. Subramaniam, also says that the ".....decision was clear that the roadworthiness certificate from the testing authority was essential for the grant of licence. The question whether the trial run should be 10,000 Kms. or 30,000 Kms. is only relevant to the extent of the issue of roadworthiness certificate by VRDE. If VRDE had issued a certificate after 10,000 Kms. the matter is closed, but if VRDE did not consider it appropriate to issue a certificate at this stage, it is not for the licence issuing authority to presume the roadworthiness of the prototype. The only point from which the question should be looked into is whether roadworthiness certificate had been issued by the VRDE or not". The undisputed fact is that VRDE had not cleared the Maruti prototype for roadworthiness.

VRDE, Ahmednagar, wrote to Maruti Limited on November 8, 1973 indicating the terms and conditions for testing the prototype and asking them to supply details of the assemblies and components manufactured at their factory or "bought out from trade" or imported. Maruti Limited in their reply dated November 16, 1973 did not agree to certain conditions, namely, payment of the charges for the tests, sending the prototype to VRDE, and submitting the engine for dynamometer test. According to Maruti it was for the Ministry of Heavy Industry to get the prototype tested at their cost. A copy of this letter was marked to the Ministry of Heavy Industry. The Ministry's decision was communicated

to Maruti Limited in a letter dated December 21, 1973 signed by S. M. Ghosh, Joint Secretary. The letter stated *inter alia* : "the relevant condition of the letter of intent is that the prototype will be developed and got tested and approved for roadworthiness. It is not the Ministry of Heavy Industry that will develop the prototype and, therefore, it is not for the Ministry of Heavy Industry to get it tested and approved for roadworthiness. The stipulation is that the Government of India will convert the letter of intent into an industrial licence only after the applicant has developed a prototype and got it approved; in other words, he should not only develop a prototype but should produce a certificate of roadworthiness of the prototype by the appointed authority i.e. VRDE, Ahmednagar". Possibly this led Maruti to write to VRDE on December 31, 1973 accepting VRDE's terms and conditions for testing the prototype. In a meeting held in the office of A. S. Jayaraman, Director of Vehicles (Research and Development), New Delhi, on January 24, 1974 which was attended on behalf of Maruti Limited by retired Wing Commander R. H. Chawdhry, Maruti Limited agreed to supply the performance claims and information relating to the sources of manufacture and procurement of the various items of the car. They also agreed to submit the prototype to reliability trials on completion of the performance trials but declined to supply an extra engine for dynamometer test. The Directorate of Vehicles brought this to the notice of the Ministry of Heavy Industry who were told that if a spare engine was not supplied, it would not be feasible to comment on the engine characteristics. The Ministry of Heavy Industry on January 30, 1974 again extended the validity of the letter of intent up to June 30, 1974 to enable Maruti Limited to fulfil the conditions laid down in the letter of intent. They were again told that all the conditions of the letter of intent including getting the prototype cleared by VRDE, Ahmednagar, would have to be fulfilled within that period. On February 6, 1974 Maruti Limited submitted performance claims to VRDE and a few days later, on February 10, 1974 the Maruti prototype car arrived at Ahmednagar.

The prototype car that was sent for tests to Ahmednagar had one unexpected feature. The car which was supposed to be wholly indigenous had an imported engine fitted on it, which was one of the two German N.S.U. engines brought into this country by W.H.F. Muller, a West German national and an expert in spot-welding of car bodies. Before describing how and why Muller imported the two engines from Germany, it is necessary to state how Muller came to be associated with the Maruti concerns. At a meeting of the Board of Directors of Maruti Limited held on June 29, 1972 a resolution was passed that "the company do avail of the services of Mr. W.H.F. Muller subject to confirmation from the proper Government authority the possibility (sic.) of such an appointment as technical consultant and enter into an agreement with him...". Shri Sanjay Gandhi was authorised to execute the agreement on behalf of the company. The Directors present were Shri M. A. Chidambaram (Chairman), Shri Sanjay Gandhi and Shri Raunaq Singh. On July 29, 1972

Muller addressed a letter to the Foreigners Regional Registration Officer, New Delhi, saying : "I wish to inform you that I have left the firm of Rahoul Siemssen Engg. Pvt. Ltd. to whom I was delegated by Siemssen and Co. of Hamburg/Germany, on the 30th June, 1972 and entered into a contract with Maruti Ltd., Gurgaon Road, on 1st July as a technical adviser. The contract is to be registered with the Ministry of Trade and Industry at the earliest possible by Maruti Ltd". File No. 6(5)/72-AEI(I) of the Ministry of Industrial Development contains extracts of notes taken from file No. 1(85)/68-AEI(1) on the subject of Muller's appointment with Maruti Ltd. The relevant portion of a note signed by Section Officer D. C. Majumdar and Under Secretary V. P. Gupta on September 4, 1972 and Deputy Secretary N. Radhakrishnan on the next day reads : "The Ministry of Home Affairs have forwarded a copy of the letter dated 29th July, 1972, from Mr. W. Muller, German National, and has desired that we may inform them as soon as Mr. Muller's contract with M/s. Maruti Ltd. is approved... The letter of intent granted to the party on 30th September, 1970 provides *inter alia* that no foreign collaboration or foreign consultancy arrangements will be permitted. As such it is for consideration whether we can approve the appointment of a foreign technician as technical adviser by M/s. Maruti Ltd. We may perhaps inform the Ministry of Home Affairs that we have not received any proposal from M/s. Maruti Ltd. for the appointment of Mr. Muller as their technical adviser". Joint Secretary S. M. Ghosh approved the suggestion contained in the note on September 5, saying "As we have not received any proposal, the question if it should be approved does not arise". In an affidavit affirmed on December 16, 1977 Muller says that he was first asked by Shri Sanjay Gandhi to offer technical advice to Maruti Limited "for the development and production of small car for which the said company had been issued a letter of intent by the Government", and that it was on Shri Gandhi's advice that he wrote to the Foreigners Regional Registration Officer, New Delhi, on July 29, 1972 saying that he had entered into a contract with Maruti Limited with effect from July 1, 1972 as technical adviser. But subsequently Shri Gandhi told him that the contract would be executed with Maruti Technical Services Private Limited and therefore he wrote another letter to the Foreigners Regional Registration Officer on October 8, 1972 which says that he was "free to negotiate service contracts as an individual entrepreneur" and that "on this basis a contract is being concluded with Maruti Technical Services (P) Ltd". There is no reference here to his earlier letter in which he had stated that he had entered into a contract with Maruti Ltd. Shri Sanjay Gandhi's decision to change Muller's employer, was obviously a subterfuge to avoid the difficulty hinted in the file of the Ministry of Industrial Development in the way of Maruti Ltd. employing a foreigner as technical adviser. Thereafter on December 7, 1972 Shri Sanjay Gandhi as Director of Maruti Technical Services Private Limited wrote to the Additional Secretary, Ministry of Industrial Development, that Maruti Technical Services Private Limited "has developed a small passenger car and the company will also undertake research and expe-

rimental work", that it "will also provide to Maruti Ltd., a public limited company, the technology required for setting up and operating the car manufacturing plant undertaken by the said company" and therefore the company was "desirous of engaging the services of Mr. Willy H. F. Muller, a technical expert", "as such technicians are not easily available in India at present". Shri R. V. Subralimanian was the Additional Secretary to whom the letter was addressed. Two aspects appear clearly from Shri Gandhi's letter, that

- (a) Muller's appointment was proposed because experts like him were difficult to find in India, and
- (b) Muller's specialised knowledge was to benefit Maruti Limited through Maruti Technical Services.

In reply the Ministry of Industrial Development informed Maruti Technical Services that the Ministry had no objection to the company employing Muller "on the basis that his salary will be paid in rupees and that no part of his salary will be repatriated outside India"; it does not appear to have been considered whether Muller's appointment would indirectly violate the condition of the letter of intent granted to Maruti Limited.

How Muller imported the two NSU engines from Germany has been described by retired Wing Commander R. H. Chawdhry, Chief Executive of Maruti Limited, and Muller himself. Chawdhry says : "Mr. Muller had entered into a yearly contract with M/s. Maruti Technical Services Pvt. Ltd., which was also situated in the same premises of Maruti Ltd., for giving technical advice for the development and production of the small car 'Maruti'. He was to be paid a sum of Rs. 4,000 per month to start with in Indian currency and no part of the same was to be repatriated to any foreign country. Long after Mr. Muller had joined, Shri Sanjay Gandhi, on failing to develop a proper engine, decided to obtain a better tried up proper car engine to be developed, such as German make NSU. For this purpose Shri Sanjay Gandhi sent Mr. Muller to West Germany sometime in September 1973 Mr. Muller brought two NSU engines from West Germany as his personal baggage. Customs duty/penalty etc. had to be paid at Palam Airport for their clearance as the said engines were otherwise banned items for import. These engines were kept in the Maruti Ltd. factory at Gurgaon. One of the two engines was fitted in the prototype which was sent to VRDE, Ahmednagar for roadworthiness tests. The other was used for conducting tests in the factory itself". Muller explains in more detail how the N.S.U. engines were brought to India in his affidavit affirmed on December 16, 1977 :

"When I joined this Company in July 1972, the original design of the engine which was being developed by Shri Sanjay Gandhi himself was a 2 stroke one. On its failure Shri Sanjay Gandhi wanted to develop

some other engine. He wanted to switch on to a 4 stroke engine. For the said purpose he was shown a catalogue which contained all types of engines available in the world. Shri Sanjay Gandhi approved of the NSU engine. I had also impressed upon him about its suitability to Indian condition. I had two such engines with me in West Germany. I had purchased them long back in the sixties. On this Shri Sanjay Gandhi wanted me to go to West Germany and bring the two engines. I had to visit West Germany to attend to some of my personal problems also. I went to W. Germany in September 1973. No foreign exchange was obtained by me. Shri Sanjay Gandhi had assured me that he would make arrangements for their easy passage into this country. I had paid air fare in India itself. Before returning to India I had sent the two above said NSU internal petrol combustion engines along with some other articles also to India as unaccompanied baggage. I arrived at New Delhi on 30th September, 1973. On my return I had informed Shri Sanjay Gandhi about having brought the two NSU engines which were lying with Customs authorities at Palam Airport. Shri Sanjay Gandhi advised me to get them cleared myself. I had problems with the Customs authorities in clearing of the said engines along with some other personal items as these two engines were banned items for being brought to India. And further I had not obtained licence to import them in view of Sanjay's assurance to get these things cleared without any difficulty. . . . The total of Rs. 13,447.70 i.e. Rs. 9,447.70 being Customs Duty plus Rs. 4,000 as fine on all items including engines was deposited by me through Shri G. L. Kalra an employee of M/s Maruti Ltd. on 17th October, 1973 in the Reserve Bank of India, New Delhi, and the Treasury Challan was produced before the Customs authorities. Engines were cleared from Customs on 17th October, 1973 by Shri G. L. Kalra who was authorised to do so and brought by him to Maruti Ltd. Factory. Since I was experiencing some difficulties at the customs for the clearance of my unaccompanied luggage I had approached Shri Sanjay Gandhi for assistance. . . . I had borrowed money from Shri Sanjay Gandhi for making payment towards Customs Duty/penalty etc. for the clearance of the above-mentioned two engines from Customs authorities. Subsequently, I had returned the money to Shri Sanjay Gandhi. These engines were actually required by Maruti Ltd. only for the development/production of their small car project. No research or development work was being carried out by M/s. Maruti Technical Services Pvt. Ltd. and they had no laboratory of their own.

When pressure mounted for production of a prototype for the VRDE for testing one such NSU engine was fitted in the prototype which was sent to VRDE, Ahmednagar for test . . . The second engine was used for various tests in the factory itself".

Thus the Maruti prototype car which was required to be wholly indigenous had an imported engine.

One of the reasons that contributed to the long delay in making the prototype car available for examination by VRDE was the reluctance of Maruti Limited to submit to the test proposed, especially the reliability mileage. The dogged resistance put up by Maruti Limited is evident from the numerous letters exchanged between them and VRDE, and the representations made by them to the Ministry seeking to change the condition in the letter of intent requiring VRDE's approval of the prototype as roadworthy. S. M. Ghosh who was then Joint Secretary in the Ministry of Heavy Industry has admitted that in his experience "so much correspondence all round has not been exchanged for testing of any other prototype car". The arrival of the Maruti prototype car at Ahmednagar seemed to mark the end of a phase, but not quite. In a meeting held in the office of the Director, VRDE, Ahmednagar, on February 14, 1974, Sanjay Gandhi again indicated that he had reservations regarding the reliability test though less than a month ago, on January 24, 1974 Shri R. N. Chawdhry on behalf of Maruti Limited had agreed to the reliability trials. Shri Gandhi said that he would take up the matter with the Ministry of Heavy Industry. Shri Chawdhry, Chief Executive of Maruti Limited from October 1, 1971 to March 3, 1974, who was examined by the Commission, in reply to a question why Maruti was objecting so vehemently to the reliability test, said : "that car was not capable of going through the test".

The tests on the Maruti prototype car began with an initial inspection conducted on February 11, 1974. On February 22, Maruti Limited forwarded to VRDE the details of procurement of components for the prototype in response to VRDE's query. The information supplied discloses that some parts were brought out from the motor market and some from other parties. Several components were shown as "presumed to be imported" but "original supplier not traceable". Some parts were admitted as imported with a rider that the imported components would be replaced by indigenous ones. It cannot be said that VRDE did not know that the prototype they were to examine was required to be wholly indigenous. It can therefore be asked why, when VRDE learned that some of the components were imported or presumed to be imported, they did not suspend the trials and seek further instructions from the Government? It is also inexplicable how VRDE failed to notice at that stage that the engine fitted on the prototype was an imported one. Shri R. H. Chawdhry was asked, "supposing a car is fixed with a foreign engine, at what stage you can find that a foreign engine had been fixed?" Shri Chawdhry's answer was that one could "find out by having a look at the car". Shri Jayaraman's evidence suggesting that VRDE would have taken note of this fact at the

stage of the strip examination of the engine does not therefore seem quite convincing. If it was known at the very beginning that the engine was not indigenous, then all the subsequent trials were useless exercises, and if this information was disclosed at the initial stage much time and trouble could possibly have been saved, at least the kind of trouble VRDE had to face later in this case.

The first interim trial report was submitted by VRDE on March 29, 1974 on the initial performance test after the prototype had completed a run of 7,800 Kms. excluding 2,500 Kms. covered by it in reaching Ahmednagar from Delhi. In this trial report the vehicle evaluation team had brought out the following defects : (1) cracking of trailing link, (2) vehicle pulling to the right, (3) leakage of electrolyte from the battery, (4) brake failure, (5), breakage of silencer, (6) breakage of propellor shaft bush bearings and (7) steering was stiff. All these defects were rectified either by repair or replacement. It was found that 'self-centering' was poor. Vibration and rattling in the body and at rear bonnet were noticed at 2,700 to 3,000 engine rounds per minute in the fourth gear. Water seepage during the water proof test in the passenger compartment, engine compartment and the dickey was also reported. This interim report was forwarded to the Ministry by A. S. Jayaraman, Director of Vehicles (Research and Development), New Delhi on April 17, 1974. The forwarding letter referred to the verbal instructions given by the Secretary, Heavy Industry, and promised that in accordance with the instructions VRDE would submit a report after the prototype completed 10,000 Kms. run. The letter said that reliability trials would be carried out after the completion of 10,000 Kms. run.

Events took an unexpected turn after the first interim report was received in the Ministry. On April 25, 1974 Shri M. Sondhi, Secretary, Ministry of Heavy Industry, marked the report to the Deputy Secretary after it came back from the Minister to whom it had been marked earlier for perusal. Shri T. A. Pai was then Minister of Heavy Industry. According to N. Radhakrishnan, Deputy Secretary, Shri Sondhi asked him to examine two points, (1) whether on the basis of the interim report received from VRDE the letter of intent could be converted into an industrial licence and (2) whether, while issuing the licence, it was possible to reduce the capacity from 50,000 cars to a lower figure. Shri Radhakrishnan recorded a note on May 3, 1974 in which after referring to A. S. Jayaraman's promise to submit a report on completion of 10,000 Kms. run, he said, "apparently the report that will be submitted after completion of 10,000 Kms. will say whether the prototype is approved for roadworthiness or not. We should perhaps await that report before taking action for the conversion of the letter of intent into industrial licence". But VRDE had made it plain time and again that they would not approve the prototype for roadworthiness until completion of the reliability test up to 30,000 Kms. and the Ministry had rejected finally Maruti's attempt to obtain an industrial licence before completing reliability mileage of 30,000 Kms. There was no apparent reason why the Deputy Secretary should ignore the long history of

dispute on this point between Maruti and VRDE which the Ministry resolved by firmly telling Maruti that they must get their prototype cleared by VRDE. Before the Commission, Radhakrishnan explains this note as follows: "unless the VRDE categorically certifies that the prototype is roadworthy, an industrial licence cannot be issued by the Ministry In my note dated 3rd May, 1974 I did not recommend the issue of an industrial licence on the basis of the interim report received from the VRDE after a run of 7,800 Kms. only. What I had stated in my above note was that we should await the report after 10,000 Kms. run because I expected that the report to be submitted on completion of 10,000 Kms. might give a certificate regarding the roadworthiness or otherwise of the prototype and then we could decide whether on the basis of that report letter of intent could be converted into an industrial licence. It was clear to me that without such a clear roadworthiness certificate, it would not be proper to issue an industrial licence as it would not be in conformity with the conditions of the letter of intent". Trying to explain what made him think that VRDE might give a certificate of roadworthiness on completion of a trial run of 10,000 Kms. only, Radhakrishnan says that he knew that "a certificate of roadworthiness can strictly be given only after the full run of 30,000 Kms. However, in view of the decision taken in October 1972, I thought that in this particular case a certificate of roadworthiness might be possible to be given by the VRDE after run of 10,000 Kms.". He also adds that as "the October 1972 decision to take a view of the case after receiving an interim report after a run of 10,000 Kms was applicable to this particular case and was not meant for general application", he "thought that the VRDE would include a certificate for roadworthiness after completion of 10,000 Kms.". Radhakrishnan admits that he was aware of V. P. Gupta's note dated January 6, 1973 which was seen by him, S. M. Ghosh, R. V. Subrahmanian and finally approved by the Minister, recommending that Government need not waive the condition requiring the testing of the prototype by VRDE especially for one case. He could not also have been unaware of the firm stand taken by VRDE all along that the reliability mileage must be covered. Therefore his expectation that VRDE might approve the prototype as roadworthy at that stage was without any basis. It is also not clear why Shri Mantosh Sondhi should ask his Deputy Secretary to re-examine a matter which was settled and closed. On the second point he was asked to examine by the Secretary, Radhakrishnan's finding was that it was possible to "reduce the capacity given in the letter of intent at the time of issue of the industrial licence, as Maruti Ltd. are not supposed to take any effective steps before their prototype has been approved for roadworthiness and the industrial licence has been issued to them".

On receiving Radhakrishnan's note Shri S. M. Ghosh, Joint Secretary, recorded his own note on May 8, 1974 in which he stated that the prototype had satisfactorily completed the performance trials and it had succeeded in all major tests. The only mentionable defect according to him was the vibration at 2700—3000 rounds per minute which he thought

could easily corrected. The note added that "the only condition prescribed" for issue of licence was the "approval of prototype" and that "this has been done". Ghosh was not in favour of reducing the capacity and suggested that it might be prescribed in the licence that the capacity which remained at 50,000 vehicles would be "attainable in two stages", initially the licence would be endorsed for 25,000. On the same day, May 8, he also wrote a letter to VRDE after discussion with the Secretary, Shri M. Sondhi. In this letter Ghosh stated that the Government would consider the issue of licence after 10,000 Kms. of run as had "already been agreed"; it was not stated who were the parties to this agreement. Ghosh asked from VRDE a report after the prototype completed 10,000 Kms. run. It may be recalled that it was Ghosh who had earlier endorsed V. P. Gupta's note dated January 6, 1973, had recommended in January, 1973 rejection of Maruti's objection against conducting of tests by VRDE, and on December 21, 1973 had written to Maruti telling them that they must get their prototype tested and approved for roadworthiness and the licence would be issued only on production of a certificate of roadworthiness from VRDE.

The second interim trial report after the prototype had covered 10,000 Kms. was submitted on May 4, 1974 and it was forwarded to the Ministry by A. S. Jayaraman on May 8, 1974 presumably after Ghosh had recorded his note. In the letter accompanying the report Jayaraman said that the reliability trials were being continued. The second interim report dealt mainly with performance trials. VRDE's comments on the trial results indicated that the performance was found generally satisfactory.

S. M. Ghosh's note of May 8 was seen by the Secretary, Shri Sondhi on the same day. He marked the file to the Minister stating that the second trial report on the prototype made on the completion of 10,000 Kms. had been received and "the performance of the prototype has been quite satisfactory". The Minister signed and returned the file also on the same day. On May 9, 1974 S. M. Ghosh recorded another note: "Discussed with Secretary, H.I. [Heavy Industry]. Now that we have got the roadworthiness report also, we should proceed to take necessary steps for issue of a licence. A note in draft which may issue to the Ministry of Industrial Development for issue of a licence is submitted". Apparently Shri Ghosh and Shri Mantosh Sondhi took the second interim report as roadworthiness report, though it was not meant to be treated as such by VRDE. The Secretary saw the file on June 6, 1974 and marked it back to the Joint Secretary, S. M. Ghosh.

On June 20, 1974 Shri Mantosh Sondhi called A. S. Jayaraman, Director of Vehicles (Research & Development) to inquire from him about the progress made on the reliability test. Jayaraman explained the position and also mentioned some of the defects which had come to light during the reliability trials. Four days later, on June 24, 1974, the prototype car while undergoing reliability test had a major failure of the steering tie rod and fell into a ditch. The mileage then covered was 19,376 Kms. Intimation of the

breakdown was given to the Ministry of Heavy Industry by A. S. Jayaraman in his letter dated June 29, 1974 which enclosed "photographs of the damage to the car along with copies of statements of the driver of the car and the Maruti Mechanic who was travelling with it". The letter said that the accident appeared to be due to the failure of steering mechanism and added that the defect was of a nature which needed a proper investigation by the manufacturers of Maruti. The Ministry was requested to ask Maruti to send their designer to examine the failure thoroughly and find out the cause of the failure. Maruti, however, wrote to VRDE contending that it was not a case of mechanical failure and the incident was due to the carelessness of the driver who was driving the vehicle. This contention was based on the statement of Maruti's mechanic Issac Ali made to the Maruti management on June 28, 1974. The same man had earlier on June 26, 1974 told the VRDE project team a different story and Jayaraman sent a copy of that statement with his letter. What he then said was that when the vehicle had gone about 12 miles from Ahmednagar, the driver on hearing a sound halted the vehicle. Issac Ali who was sitting on the "co-driver's seat" got down and found the vehicle alright and told the driver to proceed. The driver replied that the steering was very hard. After proceeding some distance, the driver turned back the vehicle to return to Ahmednagar for a thorough check up. Almost immediately, when the vehicle was on a causeway, it emitted a sound, the steering "became free" and went out of control and the vehicle fell into a ditch. Maruti's contention that an inexperienced driver was put on the job was incorrect because the driver concerned had been with VRDE for 25 years. The "primary causes of defects" leading to the accident were mentioned in the report of VRDE's Project Manager as: (i) failure of welding between the knuckle arm mounting end and the stub axle on the near side, (ii) shearing off one of the two mounting bolts near the welding and (iii) breakage of knuckle arm mounting end. VRDE's report dated July 2, 1974 answered the allegations contained in Maruti's letter.

On July 3, 1974 S. M. Ghosh sent a copy of Jayaraman's letter to Shri Sanjay Gandhi, Managing Director, Maruti Limited. A copy of Ghosh's letter which is on the file shows his anxiety to see the damaged car put back on the road. He said: "I shall be very grateful if you would kindly arrange to send the Chief Designer along with a team of engineers both on the manufacturing and on the design sides to Ahmednagar immediately in order that they can properly investigate into the defect and put the car back on the road after necessary rectification. I shall be grateful if you would advise me that the Chief Designer and a team of engineers have, in fact, left for Ahmednagar to remove the defects. I shall also be grateful if I could be kept apprised of the progress made in putting the car back on the road for resuming the tests". Politeness in official letters is welcome but the files do not bear out that the tone of the communications addressed to other entrepreneurs at different times had been as humble. Ghosh has expressed his gratefulness to Shri Sanjay Gandhi thrice expecting him to do something which Shri Gandhi should have

normally done in his own interest. Having written to Sanjay Gandhi on July 3, the next day, on July 4, 1974 S. M. Ghosh recorded a note on the file recommending conversion of the letter of intent into licence. He mentioned in this note that it appeared fairly clear that "continuance of the test to 30,000 Kms. was not considered an integral element of roadworthiness on which the letter of intent was to be converted". The note referred to the two interim trial reports and said that the prototype "was passed under all tests, namely speed, acceleration, fuel consumption, cooling efficiency, gradability, emergency brake efficiency and the test results did not show any major hiatus which the manufacturers claim". As regards the indigenous character of the prototype, Ghosh stated in his note that a letter was addressed by the Ministry to the manufacturers of passenger cars to confirm that in the prototype they had sent all major components and assemblies were of indigenous design and that this was confirmed by the manufacturers of Maruti cars. Ghosh considered it proper to rely on the assurance of the party instead of asking VRDE for a report on this aspect; obviously he was not aware of the imported engine fitted on the Maruti prototype. About the accident which occurred on June 24, Ghosh said in his note that it was a mechanical failure which could be overcome by suitable redesign of the components and by upgrading the material specifications.

It is difficult to see what induced Shri S. M. Ghosh to think that continuance of the test up to 30,000 Kms. should not be considered an integral element of roadworthiness. He did not refer in his note to the earlier decision of the Government to which he himself was a party. VRDE considered the reliability test as essential and, in accordance with the fourth condition of the letter of intent, it could be converted into an industrial licence only after VRDE had approved the prototype as roadworthy. The change in Ghosh's attitude evident since May 8, 1974 when both in his letter to A. S. Jayaraman and in his note he sought to make out that the prototype had successfully completed all the required tests, is not easy to explain, but his attempt to show as if VRDE had approved the prototype car as roadworthy was both unjustified and misleading. Shri Sondhi's own note also recorded on July 4, said that Ghosh's note was prepared in consultation with him. Stating that the performance of the prototype had been quite satisfactory, Sondhi remarked that the Government should now proceed to grant an industrial licence. Sondhi's note was seen by the Minister, T. A. Pai, who put his signature below it as token of his approval. Whether Shri Sondhi was right in thinking that the performance of the prototype up to 10,000 Kms. was sufficient indication of its roadworthiness is not relevant, what is relevant is the fact that VRDE as the testing authority appointed by the Government had not approved the vehicle for roadworthiness; neither the first nor the second report said that the Maruti prototype was roadworthy. A. S. Jayaraman has said that "as far as we are concerned the roadworthiness certificate would only be given after completion of the reliability".

Maruti Limited had the damaged vehicle repaired and put on road again for further reliability trials,

and recording this fact in his note dated July 20, 1974 Shri M. Sondhi asked S. M. Ghosh to take action to convert the letter of intent into an industrial licence. On the files one does not find any justification for the step taken by Shri Sondhi which was clearly in disregard of the fourth condition of the letter of intent.

The last phase in the progress for the issue of a licence now started. S. M. Ghosh on July 22, 1974 sent a note to R. K. Tikku, Director in the Secretariat for Industrial Approvals (SIA for short), Ministry of Industrial Development, which said "all conditions laid down in the letter of intent dated 30th September 1970 for manufacture of 50,000 passenger cars a year have since been fully and satisfactorily complied with. An industrial licence for the manufacture of 50,000 cars a year may, therefore, be issued to Maruti Ltd." Tikku has said that as the note which he got from S. M. Ghosh "dealt with an important and sensitive case" he thought it was "advisable to keep his immediate superior officer Shri Mahadevan" informed, and showed the note to Shri Mahadevan. I. Mahadevan was the Joint Secretary in the Ministry of Industrial Development. He says in his deposition that in normal circumstances there was no need for the Director to come to him, but "as it was an important and sensitive case, he thought it was his duty to bring it to my notice". It appears that Mahadevan himself then took the matter to the Secretary in the Ministry of Industrial Development and after consultation with him sent a slip to R. K. Tikku which read: "Discussed with Secretary. This case can be dealt with under the rules following usual procedure and routine in due course". Asked why he considered it a sensitive case, Mahadevan says: "We were aware that this was the case of Maruti and the applicant in this case was Shri Sanjay Gandhi". R. K. Tikku sent Mahadevan's note along with S. M. Ghosh's note dated July 22, 1974 to N. Venkatesan, Under Secretary in the SIA. Venkatesan was then in charge of the Licensing Committee Section which was entrusted with the task of converting the letters of intent into industrial licences. The notes were handed over by Venkatesan to Thakker, Section Officer of the Licensing Committee Section with instructions to process the case in the usual manner. Thakker asked for the relevant file from the Department of Heavy Industry but the file was not made available to him. According to Mahadevan, Tikku and Venkatesan ordinarily the recommendation of the administrative Ministry for conversion of the letter of intent to a licence used to go on the file of the administrative Ministry and SIA was provided with the file dealing with the original letters of intent. The main function of SIA, as Tikku explains, was to "check the letter of intent, and the conditions put in there, whether they had been carried forward in the industrial licence and whether the basic requirements were fulfilled". The SIA was not however supposed to go behind the advice of the administrative Ministry. Both Tikku and Mahadevan while acknowledging that this was the normal practice said that it was also open to the administrative Ministry to send a self-contained note as in the present case, instead of the main file. Venkatesan has said that his Section Officer was not given access to the file and

on his insistence he was supplied only with attested copies of the letter of intent which the Section Officer submitted to Venkatesan on July 23, 1974. Venkatesan says that they had to act therefore on the basis of the recommendation of the Joint Secretary S. M. Ghosh. Venkatesan recorded the following note. "We have not been provided with the main file on the subject as it is the practice before letter of intent is converted into an industrial licence.... In the absence of this, we have to act on the basis of advice given by the Joint Secretary in the administrative Ministry. We may presume that condition No. 4 of the letter of intent which is very important in this case has been fulfilled and administrative Ministry are satisfied with this. On this basis we may issue the industrial licence. Director R. K. Tikku may kindly see and approve". Had the main file been made available, the SIA could have examined whether the basic requirements had been fulfilled to justify the issue of a licence and come to their own conclusion on the point even if they could not go behind the advice of the administrative Ministry. Venkatesan's evidence is that he had been instructed by his Director R. K. Tikku "to deal with this case on priority basis" and "to be careful in handling this file since it was a sensitive case". R. K. Tikku saw Venkatesan's note and approved the suggestion to issue the licence on the basis of S. M. Ghosh's note dated July 22, 1974. The draft licence was prepared and shown to Shri S. M. Ghosh and after he had approved it, the licence was issued on July 25, 1974.

After the issue of licence Maruti stopped the supply of fuel and oil making it impossible for VRDE to continue the reliability test. The prototype car had then covered only 19,841 Kms. Both Shri Sondhi and Shri Ghosh had suggested that the issue of licence need not be held up until the prototype completed the reliability test on the view that reliability trials could be continued even after the issue of licence. However, Maruti Limited in their letter dated December 2, 1974 assured the Ministry that supply of the facilities would be resumed. Shri S. M. Ghosh forwarded the letter to A. S. Jayaraman to request VRDE to continue the reliability trials, but the assurance proved to be false. The Ministry then wrote to A. S. Jayaraman, Director of Vehicles (Research & Development), asking for clarification on the nature of the further trials that remained to be carried out and the time they would take to complete the task. The reply received from VRDE indicated that it would take approximately four months to complete the following trials:

- (a) continuance of endurance trials to complete 30,000 Kms.;
- (b) repeat performance trials on completion of endurance trials; and
- (c) strip examination.

The efforts made by the Ministry to persuade Maruti to resume the fuel and oil facilities failed. In this situation S. M. Ghosh had a discussion with his Secretary M. Sondhi and they came to the conclusion that since it would not be possible for VRDE to keep the vehicle with them for an indefinite time, it would be

better to advise them to return the vehicle. The note of the discussion recorded by S. M. Ghosh on May 21, 1975 which was marked to the Minister stated that the Secretary was of opinion that as the licence had been issued and the vehicle had already run about 20,000 Kms. further reliability trials were primarily for bringing to the notice of the manufacturer the remedial defects which might be noticed in the process and that the purpose could be better served if a production model was picked up from the assembly line and tested for durability. The suggestion was in accordance with a new system called "concurrent test" which had been introduced from January 1974, long after Shri Sanjay Gandhi had been granted a letter of intent. The concurrent test was applicable only to the existing manufacturers. Even Shri S. M. Ghosh admits that it had never been the idea that the "test schedule for prototype should be modified in the light of concurrent testing system" introduced later. Ghosh goes on to add that "in this particular case as the reliability trials could not be continued and licence had already been issued, it was felt that the same purpose could be served in future by picking up vehicles from the assembly line for purported test over substantial mileage". But after licence had been issued, insistence on any kind of test would be pointless unless the manufacturers thought it useful for them.

It would appear from Ghosh's statement that the idea of applying the concurrent test as a substitute for reliability trials was thought of by Shri Sondhi. Shri T. A. Pai, who was then Minister of Heavy Industry has deposed before this Commission and agreed with Sondhi and Ghosh that reliability trials were not essential. Even Shri Pai in his statement recorded by the Commission on December 24, 1977 said: "Concurrent tests are not the same as reliability trials. The two are meant to serve different purposes. While the concurrent tests were meant to ensure the post manufacture maintenance of quality by the manufacturer, the reliability tests were meant to check the specifications held out by the maker and to ensure safety of travelling public". But in a subsequent statement made on January 13, 1978 Shri Pai stated that the word 'reliability' in the extract quoted above was an inadvertent mistake and the word should be replaced by the word 'performance'. In that case the purpose of the performance test as stated by Shri Pai would not be quite the same as described by Shri Jayaraman. Assuming that the reference to the reliability test in the lines quoted above was a mistake for performance test, what remains uncontradicted is that concurrent tests were meant to ensure the post manufacture maintenance quality. The fourth condition mentioned in the letter of intent was that before the letter of intent was converted into an industrial licence, prototypes must be developed, tested, and approved for roadworthiness by an authority appointed for the purpose by Government. There can be no question of maintaining post manufacture quality before one got the licence giving him the right to manufacture cars.

The view taken by Shri T. A. Pai, Shri M. Sondhi and Shri S. M. Ghosh was that reliability trials were meant only for the benefit of the manufacturer. This view was not shared by VRDE. According to VRDE

these trials were meant to be a test of the car's roadworthiness. If the reliability test was dispensable, it was so, it seems, only for Maruti. Shri Manubhai H. Thakkar of Baroda who was granted a letter of intent on November 1, 1971, also manufactured a prototype car which he named 'Maya'. Like Maruti, Maya prototype car was also sent to VRDE, Ahmednagar, for testing. On March 24, 1975 Shri Manubhai Thakkar wrote to the Under Secretary, Ministry of Industry and Civil Supplies (Department of Heavy Industry), saying that the prototype had gone through all the tests successfully upto 22,600 Kms. and requesting the Ministry to convert the letter of intent into licence in view of the performance. The request was not acceded to. In reply V. P. Gupta, Under Secretary, Ministry of Industry and Civil Supplies (Department of Heavy Industry), informed him on April 8, 1975 that "you are required to fulfil all the conditions of the letter of intent including getting the prototype of the vehicle cleared by the VRDE, Ahmednagar". It was only after the 'Maya' prototype car had covered successfully the total endurance mileage of 30,000 Kms. that VRDE made their final report on September 26, 1974 that from the performance, reliability and maintainability point of view, the prototype submitted was considered roadworthy. If the reliability trials were meant only for the benefit of the manufacturer, the anxiety shown by Shri Ghosh at Maruti's refusal to go through the test after they got the licence was remarkable. Referring to a letter that the Ministry received from VRDE saying that they were not able to carry out the reliability trials because Maruti had withdrawn the facilities and the representatives of the company had also left, Shri Ghosh told the Commission: "Immediately the matter was taken up with the company and at my personal level several letters were addressed, for instance dated 19-10-1974, 4-11-1974 and 22-1-1975. The letters evoked formal response from the firm but VRDE continued to say that the facilities have not been restored. The efforts were continued upto 20th May, 1975 when VRDE reported that petrol account has been closed and they are not in a position to carry out the trials. I took up the matter with the Secretary immediately and discussed the question of continuance of reliability trials". Shri T. A. Pai has also said that he had complained to the former Prime Minister Shrimati Indira Gandhi about "Mr. Sanjay Gandhi failing to fulfil the commitment to complete the required reliability tests". The talk about Shri Sanjay Gandhi's "commitment" to complete the reliability tests would be somewhat incongruous if these tests were meant only for the manufacturer's benefit. Shri Pai further stated: "We were repeatedly asking the party over the telephone to complete the test. It was personally brought to the notice of the then Prime Minister by me that Mr. Sanjay Gandhi should complete the tests. The then Prime Minister said that she would advise Mr. Sanjay Gandhi to do so, but nothing came out of it. We did not know what penal action could be taken against Mr. Sanjay Gandhi for this failure". According to Shri Ghosh if the prototype was not found roadworthy after licence had been issued, they had no power to cancel it. This was a situation brought about by the unauthorised meddling with the condition of the letter of intent.

Shri Pai's anxiety to see that Sanjay Gandhi fulfilled his 'commitment' appears to have been prompted also by his concern for the former Prime Minister's reputation. In answer to a question put to him as to what was the "compelling necessity to go to the Prime Minister and not call Mr. Sanjay Gandhi to your office and tell him to get the things done", Shri Pai said: "Well, you see I did not send for him and I did not want to deal with him because he was a rude person to deal with and absolutely unreasonable, so I had to go to the Prime Minister and told her that this would put her reputation down and failure would be taken rather seriously". To a further question as to what the Prime Minister said, his answer was that she said she would advise Shri Sanjay Gandhi. To yet another query: "Did she not say that this was no concern of mine, why did not you bring this to the notice of Shri Sanjay Gandhi?", the answer was "she did not say that". Shri Pai said that he also brought to her notice that he had doubts about the reasonableness of the licence given to Maruti for a capacity of 50,000 cars a year, especially in view of the market conditions and the large investments involved in such a big venture. He suggested that a lesser capacity would have been more realistic. According to him he told Shrimati Gandhi that he would "like his Secretary Sondhi to explain to her the implications of production of 50,000 cars". Shri Sondhi's evidence is that when they decided to convert the letter of intent into industrial licence on getting the interim reports from VRDE, it struck him that it was very difficult to achieve the 50,000 capacity sanctioned to Maruti, the reason being that such a big venture needed very heavy investment and also required development of ancillary industry in the country at a high level. He also explained to his Minister that apart from the other reasons, production at that scale would require very substantial inputs. In the meantime Shri Sondhi got several telephone calls from the Prime Minister's Secretariat inquiring about the delay in issuing a licence to Shri Sanjay Gandhi. Professor Dhar, Secretary in the Prime Minister's Secretariat, telephoned him more than once wanting to know the cause of the delay. Shri Sondhi got a call also from Shri R. K. Dhawan, Additional Private Secretary to the Prime Minister, which was more a threat than a query. Dhawan said that he "could report to the highest" possibly trying to convey to Sondhi that further delay in issuing a licence to Shri Sanjay Gandhi would incur the displeasure of the Prime Minister who was obviously the "highest".

After Shri Pai had spoken to the former Prime Minister, Shri Sondhi was given an opportunity to see her. According to Shri Sondhi he explained the whole position to Shrimati Gandhi who said she would consider what he had told her. However, these meetings did not yield any result. Either Shrimati Gandhi having considered what Shri Sondhi had told her found that the capacity of 50,000 cars for which Maruti had been given licence was reasonable, or, on a consideration of the matter she agreed with Shri Sondhi but did not find it possible to induce Sanjay Gandhi to agree to a reduced capacity, or she did not allow herself to be bothered by what Shri Sondhi had told her.

When it was found that it was not possible to continue the reliability trials because the necessary facilities had been withdrawn by Maruti, Sondhi thought that VRDE would be better advised to return the vehicle. Accordingly S. M. Ghosh submitted a note to the Minister and on his concurrence orders were issued on May 5, 1975 to VRDE to return the prototype. The prototype was handed over to the representative of Maruti on June 14, 1975.

Summary of special features.—The special features appearing in the account given above of how the Maruti car project was cleared may now be summarized:

- (a) To consider the feasibility of manufacturing low cost passenger cars in the country, the Central Government had appointed two Committees, one in 1959 and the other in 1960. The project was not implemented even after the committees had submitted their reports as the foreign exchange position at the time was said to be unfavourable. Criticism however grew that the inaction was in the interest of the monopolists in the automobile industry. Replying to a debate in the Lok Sabha on the subject of small car in August 1966 Shri D. Sanjivayya, Minister of Industry, stated that the feasibility of the car project would be considered first in the public sector. Shri Fakharuddin Ali Ahmed, Minister of Industrial Development and Company Affairs, repeated in Rajya Sabha in July 1967 that the endeavour of the Government would be to explore the possibility of manufacturing a cheap car in the public sector. Shri Sanjay Gandhi applied for an industrial licence to manufacture passenger cars on December 11, 1968. The desire expressed by Shri Fakharuddin Ali Ahmed for a new unit in the public sector led to a summary being prepared in September/October 1969 for consideration by the Cabinet. In the summary the Ministry of Industrial Development included a paragraph proposing to seek approval of the Cabinet for the issue of letters of intent to parties who came forward with proposals based on indigenous design and with no request for import or allocation of foreign exchange. From this point the public sector appears to have lost the priority given to it earlier by Shri Sanjivayya and Shri Fakharuddin Ali Ahmed. The trend became more prominent in the note recorded on December 10, 1969 by Shri S. R. Kapur, Under Secretary in the Ministry of Industrial Development, which, after describing Shri Sanjay Gandhi's scheme as completely indigenous, suggested sending all such indigenous schemes to the licensing committee for approval without waiting for the decision of the Cabinet on the summary prepared for its consideration. Besides Sanjay Gandhi's proposal there was then only one more, from Madan Mohan Rao,

claimed to be indigenous. Shri Kapur's anxiety to have the proposals claimed as indigenous sent to the licensing committee without waiting for the Cabinet decision is hard to explain unless the object was to hasten the issue of a letter of intent to Shri Gandhi. If one remembers that it was Kapur who in August 1966 had said that a wholly indigenous car was "inconceivable" "at the present stage of our industrial development" and in January 1967 suggested that the existing manufacturers should be allowed to expand, the change in his view would seem remarkable.

The policy announced in Parliament by Shri Dinesh Singh, Minister of Industrial Development and Internal Trade, on August 10, 1970 contemplated setting up an additional production capacity in the public sector of 50,000 cars per annum based on a proven foreign design concurrently with giving an opportunity to parties in the private sector to manufacture cars based on completely indigenous sources. It thus appears that after the initial assertion of priority in favour of the public sector, Government's policy concerning the manufacture of cars with the arrival of Shri Sanjay Gandhi on the scene was shaped to help Shri Gandhi get an industrial licence for his car project.

(b) The condition requiring the proposals from parties in the private sector to be wholly indigenous was considered impossible to satisfy at that stage of industrial development by many including Shri Sanjivayya, the DGTD and the Tariff Commission. Kapur's note dated August 17, 1966 has already been referred to. The question therefore arises, why such an impossible condition was imposed? Even Madan Mohan Rao who claimed his scheme to be indigenous and who was granted a letter of intent along with Sanjay Gandhi, felt that he could not proceed without having his drawings approved by a foreign expert. Shri Gandhi had an imported NSU engine fitted on the Maruti prototype that was sent to VRDE for testing which was clearly a fraudulent act. Many of its components were also admittedly imported though some of them were bought out from the local market; use of such components was not permissible according to the notion of a hundred per cent indigenous car as explained by Shri D. Sanjivayya, Shri C. Subramaniam and Shri Dinesh Singh. It seems that Sanjay Gandhi was aware of the difficulty and he never intended to comply with the condition, yet he succeeded in obtaining an industrial licence. Others who were not so bold and resourceful and did not expect to get away with fraud were bound to give up leaving the field clear to Shri Sanjay Gandhi.

(c) Muller, a West German national, who brought the two NSU engines from West Germany was asked by Shri Sanjay Gandhi to join Maruti Limited as technical adviser and Muller had also written a letter to the Foreigners Regional Registration Officer on July 29, 1972 saying that he had entered into a contract with Maruti Limited with effect from July 1, 1972. Then Shri Gandhi changed his mind, presumably because he was advised that Muller's employment with Maruti Limited might be taken as a breach of the first condition of the letter of intent, and Muller was asked to execute a contract with Maruti Technical Services which he did. He was Maruti Technical Services' full time consultant for the Maruti small car project only; he was to advise Maruti Limited through Maruti Technical Services. This was only a device to get round the prohibition.

(d) VRDE's decision to reserve their report on the indigenous character of the assemblies and components of the Maruti prototype car till the strip test stage is difficult to appreciate. Maruti's Chief Executive, Shri R. H. Chawdhry has said that even by looking at it one could tell that the engine fitted on the prototype was an imported one. By reporting this fact earlier VRDE could have avoided all the exercises they had taken which were really useless if the condition insisting on the indigenous nature of car was meant to be taken seriously.

(e) Sanjay Gandhi's car project was treated as a special case. Shri R. V. Subrahmanian admits that this kind of special treatment was not given to any other applicant for industrial licence. Shri Gandhi had his preliminary project report examined by the DGTD and the Planning Commission even before he applied for an industrial licence. This was not usual. R. V. Subrahmanian however said that so far as DGTD was concerned it was "not wholly unusual". Shri B. D. Pande, then Secretary of the Planning Commission, asked whether it was customary for the Planning Commission to examine project reports from private parties, replied that it was not "totally unusual". Even before Shri Gandhi applied for a licence the officials of the DGTD had discussions with him regarding the various features of his project. He offered inspection of the Maruti prototype car to the DGTD officials at the residence of the Deputy Minister, Ministry of Industrial Development where Shri R. V. Subrahmanian, Joint Secretary in the Ministry was also present. In the summary for the licensing committee also Sanjay Gandhi's application was treated as a special case. Joint Secretary R. V. Subrahmanian considered Madan Mohan Rao's plan to produce 75,000 cars a year over-ambitious and at his instance the summary recommended in Rao's case an initial capacity of 10,000 cars going upto 20,000—25,000 cars a year. The

capacity of 50,000 cars a year in the case of Sanjay Gandhi was not disturbed. There appears to be no valid reason for the two cases being treated differently. The licensing committee raised Rao's capacity to 25,000 cars per annum. According to the declared policy, the cars were required to be one hundred per cent indigenous which the DGTD, the Tariff Commission and even Shri D. Sanjivayya thought was an impossible condition. It was therefore hardly of any practical significance whether an entrepreneur was permitted to manufacture 25,000 cars or 50,000 cars a year. To the members of the licensing committee, especially to R. V. Subrahmanian, it seems, no one could be equal to Sanjay Gandhi even in a make believe world.

- 5) Shri Sanjay Gandhi tried hard to avoid the tests that VRDE, Ahmednagar, proposed to carry out on the Maruti prototype car, specially the reliability test. The reason was stated by retired Wing Commander R. H. Chawdhry, Chief Executive of Maruti Limited: "that car was not capable of going through the test". Shri S. M. Ghosh, then Joint Secretary in the Ministry of Heavy Industry, admits that in his experience "so much correspondence all round has not been exchanged for testing any other prototype car".
- 3) One of the tentative decisions reached in the meetings held in October 1972 between the representatives of Maruti Limited and the officers of the DGTD and VRDE was that "after receipt of the report of the first 10,000 kms. a view could be taken on the reliability of the vehicle with reference to the condition No. 4 of the letter of intent to Maruti Limited" and "at the same time further running could continue and report submitted at the appropriate time". Even as a tentative decision it was somewhat ambiguous because it did not state who was to take the view. However, the matter was concluded by the recommendation made by Shri V. P. Gupta, Under Secretary, Ministry of Industrial Development, in his note dated January 6, 1973 that in view of the "likely repercussions" the condition regarding the testing of prototype should not be waived "in any one case" and Maruti Limited should be informed that their letter of intent would be converted into an industrial licence only after their prototype had been approved by VRDE, Ahmednagar. Gupta's note was seen by N. Radhakrishnan, Deputy Secretary, Shri S. M. Ghosh, Joint Secretary, Shri R. V. Subrahmanian, Additional Secretary, and finally approved by Shri C. Subrahmaniam, Minister of Industrial Development. But subsequently another note recorded by Deputy Secretary N. Radhakrishnan on May 3, 1974 at the instance of Secretary,

Shri Mantosh Sondhi led to the reopening of the matter which seemed closed with V. P. Gupta's note. For no appreciable reason Radhakrishnan was asked by Shri Mantosh Sondhi to re-examine the point whether on the basis of the interim report received from VRDE the letter of intent issued to Maruti Limited could be converted into an industrial licence. In his note Radhakrishnan said *inter alia* that the interim report "will say whether the prototype is approved for roadworthiness or not". In his deposition Radhakrishnan admits that it was only VRDE that was entitled to give a certificate of roadworthiness but says that in this particular case he thought VRDE might grant a certificate after a run of 10,000 Kms. It is not clear what made him think so, he must have been aware that VRDE had been insisting on the completion of the reliability mileage test upto 30,000 kms.

- (h) Maruti Limited received considerable help from Shri S. M. Ghosh, Joint Secretary in the Ministry of Heavy Industry in getting an industrial licence without complying with the fourth condition of the letter of intent. On May 8, 1974 he wrote to VRDE that Government would consider the issue of licence after 10,000 Kms. run as had "already been agreed"; it was not stated when and between whom this agreement was entered into. On July 4, 1974 he recorded a note in consultation with Shri Sondhi recommending conversion of the letter of intent into a licence saying that continuance of the reliability test up to 30,000 Kms. "was not considered an integral element of roadworthiness on which the letter of intent was to be converted". In the note he sent on July 22, 1974 to R. K. Tikku, Director, SIA (Secretariat for Industrial Approvals), he said that all the conditions laid down in the letter of intent had been fully and satisfactorily complied with. All these statements in Shri Ghosh's notes are incorrect. He could not have possibly forgotten that he had earlier endorsed V. P. Gupta's note of January 6, 1973 recommending rejection of Maruti's objection against the tests that VRDE proposed to carry out on the prototype, that he himself had written to Maruti Limited on December 21, 1973 telling them that they must get their prototype tested and approved for roadworthiness and the licence would be issued only on production of a certificate of roadworthiness. In recommending the conversion of the letter of intent into an industrial licence he said in his note dated July 4, 1974 that all major components and assemblies in the Maruti prototype car were of indigenous design. This statement was based on the claim made by the manufacturers of Maruti car. How unwise he had been to accept the statement without making a proper inquiry would be proved by the fact that the prototype had an imported NSU engine.

Ghosh did not make over the main file dealing with the Maruti's letter of intent to SIA as was the usual practice. It is remarkable that so many "not wholly unusual" or "not totally unusual" features have combined in one case. Shri Venkatesan, Under Secretary in SIA, says that they had to act on the basis of the recommendation of the Joint Secretary Shri S. M. Ghosh. If they had the file the SIA could have examined the facts and come to their own conclusion as to whether the conditions of the letter of intent had been complied with to justify the issue of a licence, though they were not entitled to go behind the views of the administrative Ministry.

It seems all the steps Shri Ghosh had taken after December 21, 1973 were calculated to help Maruti in getting an industrial licence without complying with the condition of the letter of intent. Ghosh denies that he had been under any pressure. But there must have been some reason prompting him to act in the manner he did, but it has remained undisclosed. Whatever the reason was it is clear that having known Sanjay Gandhi's reluctance to submit the Maruti prototype to the reliability test, Ghosh did all he could to spare the trouble for Shri Gandhi.

The evidence given by Shri Mantosh Sondhi, Secretary in the Ministry of Heavy Industry, and Shri T. A. Pai who was Minister of Heavy Industry from February 5, 1973 till March 1977, is that the reliability test upto 30,000 Kms. was not essential in view of the decision taken in the meetings held in October 1972. According to them as a result of this decision the administrative Ministry was entitled to take a view on the roadworthiness of the prototype on the completion of 10,000 Kms. run. On the files however it does not appear that either of them had taken this stand at any time prior to giving evidence before the Commission. Neither N. Radhakrishnan, nor R. V. Subrahmanian nor Shri C. Subramaniam thought that the October 1972 decision gave the administrative Ministry any such power. In any event the controversy on this point was set at rest by Shri V. P. Gupta's note dated January 6, 1973 which was approved by the then Minister of Industrial Development Shri C. Subramaniam. Of course, there is nothing to indicate that Shri T. A. Pai's attention was drawn to Shri V. P. Gupta's note. If it was decided in October 1972, as Shri Sondhi and Shri Pai seem to think, that the Ministry would be competent to take a view as to the roadworthiness of the prototype, the decision was inconsistent with the fourth condition of the letter of intent according to which only the testing agency nominated by the Government could take any such view. If Shri Sondhi and Shri Pai were right, the condition required an amendment which normally could not be done without reference to the licensing committee. Even Shri N. Radhakrishnan who thought that a view as to the roadworthiness of the prototype might be taken after a run of 10,000 Kms. only, said that VRDE alone was competent to take this view. Radhakrishnan further said that even if VRDE had taken such a view, it would not have been a decision of general application but restricted only to the case of Maruti. Unless the intention was to do a special favour to Maruti, one could not possibly make an exception only in Maruti's case. The case of Shri

Manubhai H. Thakker whose 'Maya' prototype car was made to go through the reliability test for the entire 30,000 kms. and whose request for a licence after the prototype had run for about 22,600 Kms. was turned down, would prove conclusively that no change in the fourth condition of the letter of intent was intended. Shri Sondhi, Secretary, Ministry of Heavy Industry, was also an automobile engineer. Perhaps he was drawing on his expert knowledge when in the course of his deposition he said that reliability test up to 30,000 Kms. was not essential for a car to be considered roadworthy. Whether his opinion was right or not is immaterial, it was the opinion of VRDE that mattered in this case.

It will be relevant in this connection to refer to the answers given to two questions asked in the Lok Sabha in 1975. On February 26, 1975 in answer to unstarred question No. 1386 asked by Shri Jyotirmoy Bosu, "whether the prototype Maruti car sent to VRDE at Ahmednagar was approved by the Government and the licence for its manufacture issued to Maruti Ltd.", Shri A. C. George, Minister of State in the Ministry of Industry and Civil Supplies, said: "Licence was issued on approval of the prototype by the VRDE". The facts stated above prove that the reply was incorrect. VRDE never approved the Maruti prototype as roadworthy. The draft reply to the question was prepared by Shri S. M. Ghosh and it was seen and approved by Shri Sondhi. To another unstarred question No. 7335, as to the scope and the nature of the tests proposed by the VRDE for giving a certificate of roadworthiness, "especially the test to which the Maruti prototype was subjected", asked by Shri Madhu Limaye, Shri A. C. George replied on April 23, 1975: "The tests are uniformly applied to all prototypes. Technical performance trials include tests of maximum speed, acceleration, fuel consumption, brake efficiencies, cooling efficiencies and gradeability". It is to be noted that the answer mentioned only the technical performance trials and did not refer at all to the reliability test. The draft reply was prepared by Shri S. M. Ghosh which appears to have been modified by Shri Sondhi. The office note on the file [File No. 10(61)/75-AEI(1), Department of Heavy Industry] dealing with this question included a statement that the "VRDE has yet to submit a report on the reliability tests after running the vehicle up to 30,000 Kms.". The draft prepared by Shri Ghosh and amended by Shri Sondhi withheld reference to the reliability tests, but the question asked is not correctly answered if all the tests, including the reliability test are not mentioned. The reply given was therefore only half truth. It shows that Shri Ghosh and Shri Sondhi were not willing to disclose all the relevant facts.

Shri Sondhi's contribution to Maruti's success in getting a licence without going through the reliability test cannot be overlooked. There is no apparent reason why Shri Sondhi was so keen on dispensing with the reliability test in violation of the fourth condition of the letter of intent. However, from the facts it also appears that Shri Sondhi was opposed to granting Maruti Limited a capacity of 50,000 cars a year which he considered unrealistic. His attempt to reduce the capacity failed but delayed the issue of a licence for sometime which drew a threat from R. K.

Dhawan, Additional Private Secretary to the Prime Minister, that he (Dhawan) would report Sondhi to the "highest". Shri Sondhi has said in his deposition that some of his "actions were not liked by the authorities" and suggested that the delay in the issue of a licence to Maruti Limited might be one of them. It is a fact that Shri Sondhi was harassed. He says : "... not only my family and I were kept under police surveillance, but soon after the declaration of emergency CBI registered a case against me". Another reason why he incurred the displeasure of the "authorities", according to him, was that he tried to protect one of his officers, Shri Krishnaswamy, who was being harassed by the former government. The case registered against Shri Sondhi was dropped in August 1977 because on inquiry no evidence was found to support the allegations made against him.

- (i) Shri Sondhi and Shri S. M. Ghosh had taken the view that reliability test could continue after the licence was issued to Maruti Limited. After the issue of licence Maruti stopped the supply of fuel and oil making it impossible for VRDE to continue the test. There was nothing that the authorities could do to compel Maruti to continue the reliability mileage. This was a situation brought about entirely by unauthorised meddling with the conditions of the letter of intent, may be in good faith so far as Shri Sondhi was concerned. One should have expected in such circumstances the Minister or the Secretary to summon the entrepreneur and insist on his completing the test, but Shri T. A. Pai "did not want to deal with" Sanjay Gandhi because Shri Gandhi was "rude" and "absolutely unreasonable". So he had to go to Shrimati Indira Gandhi to tell her to make her son agree to let the test continue.
- (j) Shrimati Indira Gandhi did not tell Shri Pai when he went to see her that her son's busi-

ness was no concern of hers. She assured Shri Pai that she would advise her son to do what Shri Pai had suggested. Shri Sondhi also saw her to convince her that the capacity of 50,000 cars a year granted to Maruti Limited was unrealistic and should be reduced. To him also she said that she would consider what he had told her. If it was legally permissible to reduce the capacity mentioned in the letter of intent, it is difficult to see why that was not done, and if it was not, it is difficult to appreciate why the entrepreneur's mother should be approached to induce her son to be reasonable. The speech Shrimati Indira Gandhi made in Ahmedabad on September 23, 1970 extolling the enterprising spirit of her son Sanjay Gandhi and the virtues of his Maruti car may be recalled. She told the gathering that the car modelled by her son was "fairly comfortable and suitable to Indian conditions" and that "it would suit the middle class". A few weeks before she made this speech she presided over the Cabinet meeting which decided to entertain proposals from the private sector for the manufacture of 'indigenous' cars ; she knew at the time that her son was an applicant for an industrial licence to manufacture cars and his proposals claimed to fulfil the conditions which the Cabinet decided to impose in that meeting. Her presiding over the meeting in these circumstances attracts criticism. It is also difficult to believe that she did not know of the inquiries made from her Secretariat about the cause of delay in issuing a licence to her son. From all these one gets an impression that Shrimati Indira Gandhi as Prime Minister was not quite unconcerned in the matter of her son's business enterprise.

CHAPTER II

The third item in the list of matters for inquiry relates to :—

"All matters pertaining to the propriety and the legality of acquisition or allotment of land in Gurgaon district in the State of Haryana, including :

- (a) the propriety of allowing the location of the complex of buildings of Maruti Limited at its present site,
- (b) the circumstances relating to and the manner of the dispossession of the erst-while occupants/owners of the land, and
- (c) the nature and adequacy of the compensation paid or payable to them."

In 1971 the Government of Haryana acquired 420.54 acres of land in Gurgaon district and allotted about 297 acres of this area to Maruti Limited for its small car project. An inquiry into the above matters will touch, besides the different aspects of the land acquisition proceedings, several other topics like the selection of site for Shri Sanjay Gandhi's car factory ; the Agreement under which the land was allotted to Maruti Limited, its terms and conditions, and how far they were complied with ; construction of the Maruti complex of buildings, its propriety and legality, and the stand of the Central Government on this issue ; and, the role of the Haryana Government in all these matters. Each of these topics again has various aspects. The question of adequacy of the compensation paid to the owners and occupants of the land is pending in appeal before the Punjab and Haryana High Court and it would not be proper for this Commission to examine the same matter. It has not been always possible in the following pages to deal fully and finally with a topic before passing on to another ; sometimes the facts relevant to one extend over a length of time during which events have occurred which bear upon a different topic. I have attempted to present a coherent account of the happenings out of a mass of facts and arranged and dealt with these topics accordingly.

The narrative may begin with the selection of site for Shri Sanjay Gandhi's car project which preceded the acquisition of land. It will be recalled that Sanjay Gandhi had applied for an industrial licence to manufacture cars on December 11, 1968. A week later, on December 18, Shri Bansi Lal, then Chief Minister of Haryana, wrote to Shri Fakharuddin Ali Ahmed, Union Minister of Industrial Development and Company Affairs at the time, sponsoring the project and recommending grant of licence to Shri Gandhi. It was mentioned in the letter that the State Government had offered to Shri Gandhi facilities in respect of land, water, electricity and finance for setting up the project

at Faridabad in Haryana. Shri Sanjay Gandhi was granted a letter of intent on September 30, 1970. Before the letter of intent was issued, sometime in the second week of August 1970 Shri S. K. Misra, Principal Secretary to the Chief Minister of Haryana, informed Shri L. C. Gupta, Director of Industries, and Shri R. S. Mann, Director of Town and Country Planning, that the Chief Minister wanted them to show Shri Sanjay Gandhi some sites at Sonapat where his car factory could be set up. All three of them, Misra, Mann and Gupta then proceeded to New Delhi, called on Sanjay Gandhi at No. 1, Safdarjang Road, residence of Prime Minister Shrimati Indira Gandhi, and took him along with them visiting sites around Sonapat to enable him to choose one suitable for his purpose. Shri Gandhi did not express any opinion at the time, later Shri L. C. Gupta and Shri R. S. Mann were informed that he did not approve any of the sites he saw at Sonapat and that he preferred to set up his factory near Gurgaon.

It appears from a letter written by V. S. Ailawadi, Deputy Commissioner of Gurgaon, to M. L. Batra, Financial Commissioner (Revenue), Government of Haryana, on August 22, 1970 that on August 17, the Chief Minister of Haryana had directed him on telephone to select a suitable site for Shri Sanjay Gandhi's small car project. The letter discloses that Sanjay Gandhi had indicated his preference for a site somewhere on Delhi-Gurgaon or Gurgaon-Mehrauli Road, that on August 18 he tentatively chose two out of the three sites that he saw with Ailawadi, and that finally on August 20, he had selected a site on Gurgaon-Delhi Road in the revenue estate of Dundahera.

It was stated in Ailawadi's letter that the land required for Sanjay Gandhi's car project was 300 acres approximately. Along with the letter Ailawadi sent necessary papers for the acquisition of 291 acres of land for this purpose. This 291 acres however included about 157 acres which was in the occupation of the Defence Department. Ailawadi suggested in his letter that this area of 157 acres might be "got released" from the Defence authorities. He mentioned that a notification under section 4 of the Land Acquisition Act had already been issued for acquiring Dundahera lands for the public purpose of 'planned development' and suggested invoking section 17 of the Act to enable the Government to take immediate possession of the land. Section 17 deprives persons having an interest in the land proposed to be acquired of their right to object to the acquisition in cases of urgency. Shri M. L. Batra passed on the letter to Shri R. S. Mann, Director, Town and Country Planning. As Ailawadi's letter spoke of directions given by the Chief Minister, Mann thought it proper to discuss the matter informally with S. K. Misra, Principal Secretary to the Chief Minister. Mann pointed out during

the discussion that as Sanjay Gandhi had made no formal application for allotment of land and the Directorate of Town and Country Planning had no idea about the proposed car project, it was not possible for him to take any decision. A few days thereafter Mishra informed Mann that no action need be taken on Ailawadi's letter. Mann made a note on the file on September 29, 1970 placing on record the fact that Sanjay Gandhi had made no application asking for land to be acquired for him; this note was seen by Chief Minister Bansi Lal on October 26, 1970.

To appreciate the events that followed it will be necessary at this stage to refer to some provisions of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963. This Act which was extended to the State of Haryana, is, as its preamble shows, an "Act to prevent haphazard and sub-standard development along scheduled roads and in controlled areas". Section 3 of the Act prohibits, among other things, erection of buildings within 30 meters on either side of the road reservation of any scheduled road. Road reservation in relation to a scheduled road has been defined as the land, whether metalled or unmetalled, which vests in the Government or the Central Government or a local authority for the purposes of such road and the boundaries of which are demarcated by pillars, posts or in any other manner. It may be mentioned here that Delhi-Gurgaon road is part of Delhi-Alwar road which is one of such scheduled roads. Section 3 also mentions certain exceptions where the prohibition would not apply, but these are not relevant for the present purpose. The area around Gurgaon was declared a controlled area under section 3 of the Act, sometime in July 1964. Under section 5, the Director of Town and Country Planning is required to prepare plans showing the controlled area and signifying therein the nature of restrictions and conditions proposed to be made applicable to such area and submit the plans to the Government. The Government may approve the plans with or without modifications or reject the plans with direction to the Director to prepare fresh plans. After the plans are approved by the Government, they are published for the purpose of inviting objections. After objections, suggestions and representations have been considered, the plans as finally approved, are published in the official gazette and in such other manner as may be prescribed. Section 6 of the Act forbids erection of buildings in a controlled area except in accordance with the plans and the restrictions and conditions referred to in section 5 and with the previous permission of the Director.

According to Mann a number of development plans for the controlled area in Gurgaon were prepared but for various reasons these could not be given a definite shape. One such plan, Plan No. 5, he submitted to the Government on November 11, 1970. After this, M. L. Batra called him to his room and made enquiries about Sanjay Gandhi's proposal to set up a car factory on the Gurgaon-Delhi road. Besides being Financial Commissioner (Revenue), Batra was also Secretary of a number of departments including the departments of Town and Country Planning and Urban Estates. In the course of discussion Mann pointed out that the site where the factory was proposed to be located

fell in the area shown as rural zone in the proposed development plan. To Batra's query if there should be any difficulty in the event Sanjay Gandhi finally decided to set up his factory there, Mann's answer was that in that case a portion of the area shown in the plan as rural zone could be converted into industrial zone. Mann also told him that the Government had decided not to take any step in regard to the car project as there was no application from Sanjay Gandhi for allotment of land to him. According to Mann, Batra told him to ascertain from the Director of Industries the latest position as regards Sanjay Gandhi's project and also asked him to take immediate steps to approach the Defence authorities for release of the 157 acres of land referred to in Ailawadi's letter. As desired by Batra, Mann had a letter issued on November 14, 1970, signed by the Chief Minister of Haryana, requesting the Defence Minister Shri Jagjivan Ram to release the aforesaid 157 acres of land.

On the same day the letter to the Defence Minister was issued, November 14, Sanjay Gandhi wrote to the Director of Industries, Government of Haryana, stating that he required 300 acres of land for his car factory and also that he had selected a site on Gurgaon highway. Shri Gandhi asked for allotment of the land to him on a lease basis proposing payment in instalments, the first instalment, as proposed, was payable after five years from the acquisition of land. The site selected was in the area marked as rural belt in the proposed development plan No. 5. In this letter Shri Gandhi referred to a project report and a previous application sent by him for the land. Neither of the two documents could be traced in the files. Shri L. C. Gupta, Director of Industries, on being asked to produce these documents was unable to do so. It was suggested by Counsel assisting the Commission that the reference to these documents in Shri Gandhi's letter of November 14, 1970 was an afterthought to get over the situation that steps for acquiring land for Sanjay Gandhi's car factory had been taken even before he applied for allotment of land. About this time preparation of a new development plan, Plan No. 8, was started in the Directorate of Town and Country Planning. Mann admits that one factor that "weighed heavily" with them in deciding to prepare a new plan was the possibility that Sanjay Gandhi might set up his factory at the site chosen by him. The new plan differed from the previous one in several respects, one was that the major portion of the area to the west of Gurgaon-Delhi Road, previously marked as rural zone, was shown as industrial sector. It may be mentioned here that in his application made to the Government of India on December 11, 1968 for grant of an industrial licence, Shri Gandhi had indicated his requirement of land as 30 hectares or 75 acres only.

Reference has been made in the previous chapter to Sanjay Gandhi's letter to S. R. Kapur, Under Secretary, Department of Heavy Engineering, seeking to change the location of his proposed factory from Faridabad where the factory was earlier intended to be set up, to the site in Gurgaon. A copy of this letter was received in the Directorate of Industries, Haryana, on November 16, 1970. L. C. Gupta, Director of Industries, informed Kapur on that very day that he had no objection to the proposed change of site. Gupta

in his deposition has said that he had received a telephone call from R. C. Mehtani, Officer on Special Duty to the Chief Minister, telling him that Haryana Government's concurrence to the change of location should be communicated on that very day. Shri Abdul Gafoor Khan who was then the Minister for Industries, Government of Haryana, later questioned the competence of the Director of Industries to take a decision on his own in the matter of the change of site from Faridabad to Gurgaon. The explanation submitted to the Minister by Gupta to this charge did not refer to the instruction he had received from Mehtani; Gupta was told this Commission that he did not mention Mehtani's name because he thought that Chief Minister Bansi Lal would not like it.

Soon after the receipt of Sanjay Gandhi's letter dated November 14, 1970 M. L. Batra, Financial Commissioner (Revenue), R. S. Mann, Director of Town and Country Planning, and L. C. Gupta, Director of Industries, met in Batra's room to discuss the matter and in the course of discussion Batra disclosed that Chief Minister Bansi Lal had told him that it was almost definite that Sanjay Gandhi would set up his car factory in Haryana at the site chosen by him on Gurgaon-Delhi Road and that it was the Chief Minister's desire that the Directorate of Town and Country Planning should therefore suitably amend the proposed development plan. It was tentatively decided in that meeting which was held on or about November 19, 1970 to acquire 600 acres of land for industrial purposes including 157 acres in the occupation of the Defence Department which, it was expected, would be released.

On November 19, 1970 a note was recorded by an Assistant in the office of the Deputy Commissioner of Gurgaon that the day before, on November 18, he had received a telephone call from Shri R. K. Dhawan, Personal Assistant to Prime Minister Shrimati Indira Gandhi, asking him to send a map of the land proposed to be acquired for Sanjay Gandhi by the evening of that day. As the Deputy Commissioner was away on tour, the District Revenue Accountant had a map prepared in the office of the Executive Engineer, and sent it to Shri Dhawan at the Prime Minister's residence through a special messenger. Deputy Commissioner of Gurgaon, V. S. Ailawadi, wrote to Mann on November 21, suggesting that the Director of Town and Country Planning should move the Ministry of Defence again for releasing this area of 157 acres. Ailawadi in his letter referred to an assurance given by the Ministry of Defence on some previous occasion that they would not object to a request for release of this land and suggested that their own commitment should be brought to their notice. Mann accepted the suggestion, and a letter drafted on these lines was issued, signed by the Chief Minister, on or about December 7, 1970. In the meantime, following the discussion held in the Financial Commissioner's room, Gupta wrote to Mann on November 23, and again on December 4, 1970, asking him to take steps to acquire 600 acres of land for setting up an industrial estate at Gurgaon.

In a note recorded on December 10, 1970 R. S. Mann, Director of Town and Country Planning sought orders from the Government as to (i) which of the plans, Plan No. 5 or Plan No. 8, should be adopted, and (ii) whether 600 acres of land should be acquired immediately for industrial purposes as suggested by the Director of Industries and, if so, whether the area adjoining the Delhi border which was preferred by the Director of Industries for the purpose should be acquired. He marked the file to the Financial Commissioner (Revenue). Mann was on leave from December 24, 1970 to February 1, 1971 and during his absence Kulwant Singh, Deputy Director, Town and Country Planning, officiated in his place. About the time Kulwant Singh started officiating as Director of Town and Country Planning, M. L. Batra, Financial Commissioner (Revenue) told L. C. Gupta, Director of Industries, that the Defence authorities were not likely to agree to vacate the 157 acres of land which, it was thought earlier, would be available for the car project. A note recorded by Kulwant Singh on January 5, 1971 states that the Director of Industries wanted 400 acres of land to be acquired quickly; the reduction in demand from 600 to 400 acres was obviously due to the non-availability of the expected area of 157 acres. Kulwant Singh's note sought orders, *inter alia*, for approval of the new development Plan No. 8. The file (1) discloses a note in the margin bearing the date January 18, 1971 saying that the file had been summoned to Delhi by the Private Secretary to the Chief Minister, Haryana, "for reference". There is no indication in the file why the Chief Minister should want it at Delhi. In the file of the Deputy Commissioner of Gurgaon, there is a copy of a letter dated January 12, 1971 addressed to Shri R. K. Dhawan by Shri Ailawadi forwarding copies of certain correspondence on the subject of the release of 157 acres of land in the occupation of the Defence authorities. Shri Ailawadi in his deposition has said that Dhawan had asked him on telephone to send the copies to him.

On January 25, 1971 Batra called Gupta and Kulwant Singh to a meeting in his room where the situation arising from the Defence Ministry's decision against releasing the land in their possession was discussed. Excluding 157 acres of Defence land what remained of the area proposed to be acquired did not constitute a compact block which could be developed as an industrial zone. It was therefore felt that some change in the location of the industrial area would be necessary. It appears from Kulwant Singh's note on the file recording the substance of the discussion at the meeting that consideration of the proposed development plan had to be put off till the location of the industrial area was finally fixed. Another matter discussed was the acquisition cost. It was decided, as would appear from Kulwant Singh's note, that the Department of Town and Country Planning would bear this cost, and that, as there was no provision for it in the Budget for the next year, it should be provided for either in the supplementary estimates or efforts should be made to obtain the amount from the contingency fund of the State.

(1) File of Town and Country Planning Department marked 'C' in the affidavit filed by Shri M. Shankar, Deputy Secretary and Director, Town and Country Planning and Urban Estates, Government of Haryana.

Back from leave Mann, Director of Town and Country Planning, wrote to Gupta, Director of Industries, on February 9, 1971 requesting him to indicate the location of the 400 acres of land which was to be acquired for industrial purposes. Mann also got in touch with Ailawadi, Deputy Commissioner, Gurgaon, to find out if Sanjay Gandhi had chosen any new site for his car project. The Deputy Commissioner informed him on telephone that Sanjay Gandhi had selected a new site which should be acquired immediately. Subsequently, with a letter written on February 17, 1971 Ailawadi sent Mann the necessary papers for acquiring land in the villages of Inayatpur, Muilahera, Shahpur, Sarhaul and Dundahera all situated in Gurgaon district. The total area proposed for acquisition was 444.51 acres and this comprised the land that Sanjay Gandhi had earlier selected, excluding of course the 157 acres in the occupation of the Defence Department. The Director of Industries was satisfied that the area was suitable for industrial purposes. This area was already covered by a notification under section 4 of the Land Acquisition Act issued in 1969. In a note recorded on February 19, 1971 Mann suggested that the earlier notification which seemed defective be withdrawn and a fresh notification under section 4 issued. Mann also suggested in his note that the cost of acquisition might be provided in the supplementary estimates. Batra approved both the suggestions. Accordingly the earlier notification was withdrawn and a new notification under section 4 of the Land Acquisition Act was issued which was published in the Gazette on February 22 and 24, 1971. The provision of section 17 of the Act was also invoked for taking early possession of the land.

Some of those whose land was proposed to be acquired challenged the notification by filing a writ petition in the Punjab and Haryana High Court. One of the grounds of challenge was that the emergency provision of section 17 had been invoked without there being any real urgency. Mann sought the opinion of the Advocate General who was of the view that if recourse to section 17 was not given up, the High Court was likely to allow the writ petition. According to Mann it was not the intention of the Government to invoke the provisions of section 17 but the draft notification prepared by the Deputy Commissioner, Gurgaon, had referred to section 17 which inadvertently was not deleted when the notification was sent for publication. On legal advice this notification was also withdrawn on March 23, 1971 and the writ petition was disposed of as infructuous on March 24, 1971. But on the very next day, March 25, a fresh notification under section 4 covering the same land but without reference to section 17 was published in the Gazette.

On April 2, 1971 Mann put up the file for apprising the Public Works Minister of the action taken so far and seeking orders on several matters including the subject of funds to meet the cost of acquisition. Mann pointed out, as Kulwant Singh had done earlier, that in the Budget for 1971-72 of the Urban Estates Department there was no provision for acquisition of the land in question, adding that if the Government

so desired a provision might be made in the supplementary estimates; this was also what Kulwant Singh had suggested. On Mann's note on the point, Batra, Financial Commissioner (Revenue), recommended that the matter might be taken up with the Finance Department. The Minister saw the file on April 9, 1971.

Before tracing the course of the land acquisition proceedings, it will be convenient to refer to two other matters here : (a) L. C. Gupta's experience when as Director of Industries he wanted justification for the alleged requirement of 300 acres of land for the car factory; and (b) finalisation of the development plan for the controlled area in Gurgaon.

Sanjay Gandhi's letter dated November 14, 1970 written to the Director of Industries did not furnish the details as to how he proposed to make use of the 300 acres of land. The project report which he claimed to have sent earlier was not traceable. Gupta therefore asked S. K. Misra, Principal Secretary to the Chief Minister, to bring this deficiency to the notice of the Chief Minister. A plan was subsequently received in the Directorate of Industries via the Chief Minister's secretariat showing proposed constructions sparsely spread over the entire area; presumably Chief Minister Bansi Lal apprised Sanjay Gandhi of the deficiency pointed out by the Director of Industries. This plan in the opinion of the Director of Industries did not justify the requirement of 300 acres, and he conveyed through S. K. Misra his view to the Chief Minister. Thereafter another plan was received, again through the Chief Minister's secretariat, sometime in late December 1970 or early January 1971, which showed that 120 acres was required for immediate use, 100 acres for expansion, and 80 acres for the test track. According to Shri Gupta this plan also gave only a broad indication of the requirement and not a detailed justification which was necessary to enable him to examine the case. Gupta again conveyed his difficulty to the Principal Secretary to the Chief Minister who later informed Shri Gupta that the Chief Minister wanted him to contact R. K. Dhawan, Personal Assistant to the Prime Minister and explain the difficulty to him when Gupta next visited Delhi. Accordingly, Gupta when he next came to Delhi on tour rang up R. K. Dhawan and asked him to inform Sanjay Gandhi that a more detailed justification of his requirement should be sent to enable the Directorate of Industries to assess the requirement of land for the proposed factory. But nothing was heard from Shri Sanjay Gandhi. Shri Gupta then proposed to write a formal letter to him and a draft letter was prepared and put up for approval before Shri Batra. The draft letter contained a request to Shri Sanjay Gandhi to "give a detailed writeup giving the justification for the built-up area indicated in the map furnished" and also included a number of other topics including adequate supply of electricity which was assured. The draft added, "we would however be grateful if you let us know the exact quantum of power required by you to enable us to do advance planning in this regard". The draft was approved by Chief Minister Shri Bansi Lal but the letter was not sent because the Industries

Minister, when he saw the file on March 8, 1971, raised certain queries relating to the acquisition of land for the car project. According to Shri Gupta before these queries involving a "fundamental" issue were answered, it was not possible to send the letter. It appears from the file that the Minister wanted to know why it had taken so long to reply to Sanjay Gandhi's letter of November 14, 1970. He also objected to the allotment of land to Sanjay Gandhi on the terms proposed by Shri Gandhi—payment in instalments and the first instalment payable five years after the acquisition of land. He expressed the view that there was no moral or other justification for dispossessing the tillers of the land.

The letter that was ultimately issued did not conform to the draft, not however as a result of the view taken by the Industries Minister, nor was its despatch consequent on his approval; the draft was changed and the letter sent exactly as the Chief Minister wanted. A note recorded by Shri L. C. Gupta on April 21, 1971 shows that Shri S. K. Misra, Principal Secretary to the Chief Minister, conveyed to him on that day that the Chief Minister wanted the reply to Sanjay Gandhi's letter of November 14, 1970 to be sent on that very day and compliance reported to him. Gupta was also told that Sanjay Gandhi had expressed great annoyance to the Chief Minister for the delay in replying to his letter and allotment of land to him. Later on the same day Shri Misra further informed Shri Gupta that the Chief Minister desired that no question of justification for the requirement of 300 acres should be raised in the letter to be issued. A reply as desired by the Chief Minister was sent to Shri Sanjay Gandhi on the same day and compliance with the Chief Minister's order was reported to his Principal Secretary. The letter issued informed Sanjay Gandhi that "it would be possible" to give him land "with provision of roads, water, power and drainage etc." for his proposed factory, that the price charged was "recoverable in instalments", and that there would be no difficulty in issuing private carrier permits for trucks and buses required by him. As regards other facilities and concessions available for new industry in the State, a note on the current policy was enclosed. The letter ended with the assurance, "we shall be only too glad to give any further clarifications which may be required". In explaining why in the matter of allotment of land to Sanjay Gandhi, he had to have every action that he proposed to take approved by the Chief Minister, Shri Gupta says : "This was treated as a special case and at each and every stage the Chief Minister had to be fully kept in the picture. This was done by me through the Principal Secretary to the Chief Minister. It was considered necessary to secure Chief Minister's orders before sending any written communication".

The development plan for the controlled area in Gurgaon was finalised after Gupta had written to Sanjay Gandhi on April 21, 1971. The facts relating to the finalisation of the development plan may be stated here. Plan No. 8 which was the last of a number of plans prepared by the Directorate of Town

and Country Planning was approved by the Government sometime in April 1971, but remained to be published. According to Plan No. 8 the present site of Shri Gandhi's car factory fell partly in the residential and partly in the industrial area. The residential sector was abutting the Delhi-Gurgaon road and the industrial area was at the back. But at a meeting held on May 14, 1971 in the room of Shri Batra, Financial Commissioner (Revenue), which was attended by Shri L. C. Gupta and Shri R. S. Mann, it was decided that the residential sector should be excluded from the plan and the entire area marked for industrial purposes. As regards the reason for the proposed change in the plan, Mann says that Batra had told him that "Shri Sanjay Gandhi had got it conveyed to the Chief Minister that he did not like the idea of a residential sector housing industrial labour to be located in the midst of an industrial area as it might lead to increased labour trouble, threatening the smooth functioning of the industries. To accommodate Shri Sanjay Gandhi's wishes, this residential sector was converted into an industrial use". Batra denies having said this to Mann but admits that deference to Sanjay Gandhi's wishes may have been "one of the reasons" for converting the residential sector into industrial; the other reason according to him was the consideration of cost involved in developing an isolated residential sector. Batra also admits, "may be it was conveyed to one of us that this [locating residential sector housing industrial labour in an industrial area] would accentuate labour trouble". From what Batra says it does not appear that of the two reasons, Sanjay Gandhi's preferences was not alone sufficient to prompt the change in the development plan. Plan No. 9 was thereafter prepared in accordance with the decision taken on May 14, 1971. The Chief Minister approved the new draft development Plan No. 9 on June 1, 1971 which was published in the Gazette on July 13, 1971. The final development plan was published in the Gazette on September 20, 1971.

Turning again to the land acquisition proceeding, Shri O. P. Yadav, Land Acquisition Collector, made his report to the Government under section 5-A of the Land Acquisition Act after hearing the objections of persons interested in the land notified for acquisition. The total area sought to be acquired, 444.51 acres spread over five villages :—

	(acres)
(i) Inayatpur	24.11
(ii) Sarhaul	74.79
(iii) Shahpur	54.19
(iv) Dundahera	47.83
(v) Mullahera	243.59
	444.51

In his report Yadav stated that after hearing the objectors he inspected the site in their company. Mainly the objections were as follows :—

- (i) The land was fertile and the acquisition of such land would hinder the food production campaign.

- (ii) The small land owners would lose their only source of livelihood as a result of the acquisition.
- (iii) The acquisition would result in a heavy loss to many among the interested parties who had invested a lot of money in developing the land.
- (iv) Acquisition of the fertile land was not necessary when fallow lands were available in the vicinity—in villages Nathupur and Chakrapur on the Delhi-Mehrauli Road.
- (v) Near the land proposed to be acquired, an ammunition depot and other air force installations were located and the area was a restricted zone as would appear from a letter issued from Air Headquarters, No. AIR-HQ/20851/114/ORG/AS/71/1/D (Air Force), dated August 13, 1956 and the Central Government Gazette Notification S.R.O. 6, dated January 11, 1969 which prescribed a safety belt of 1000 yards around the ammunition depot.

In his report the Land Acquisition Collector agreed that the land sought to be acquired was of very good quality and highly productive. He also found that most of the interested parties were uneducated small land owners and except 50 all the other interested parties numbering 1086 were entirely dependent on agriculture. Referring to the "semi-hilly" area on Delhi-Mehrauli Road which the objectors had pointed out as an alternative site, he said that he had visited the place and agreed that the Government might acquire land in that areas instead of the fertile land in question. Regarding the objection that the land was within the safety belt of 1000 yards around the ammunition depot, the Land Acquisition Collector found that the land of village Inayatpur, and perhaps that of village Sarhaul, was inside the safety belt but he said that as the interested parties did not produce the relevant notification, he was unable to comment on this objection. He did not try to obtain a copy of the notification from the office of the Deputy Commissioner, Gurgaon, or from any other source though the objectors had mentioned the details of the notification. The Land Acquisition Collector's report was considered by R. S. Mann, Director, Town and Country Planning, who recorded his opinion in his note dated June 1, 1971. He was of the view that the objections were not valid and should be rejected. As regards the objection that the land was within 1000 yards of the ammunition depot, Mann stated that the relevant notification had not been produced before the Land Acquisition Collector and also mentioned that there were many constructions made by private parties in that area and the air force people took no step to prevent them. Mann suggested that the Government should acquire the land and, thereafter, if the Defence Ministry objected, or the notification was traced, construction within the safety belt could be prohibited. It appears from his note that Mann was aware that there might be some restriction on constructions around the ammunition depot but he did not know the precise nature of the restrictions. Mann also did not make any attempt to find out the notification. He did not consider the alternative site

suggested by the villagers as suitable for industrial purposes because the area was hilly and also away from the main road. O. P. Yadav, Land Acquisition Collector, had found the area suitable and the difference of opinion seems to suggest that its unsuitability was not so obvious. Shri Mann however did not consider it necessary to have the matter examined further. The alternative site was not on Delhi-Gurgaon Road, as Mann had pointed out, but it was served by another road, viz. Gurgaon-Mehrauli Road, and it may be recalled that Shri Sanjay Gandhi had earlier indicated his preference for a site either on Delhi-Gurgaon Road or on Gurgaon-Mehrauli Road. Shri M. L. Batra, Financial Commissioner (Revenue), agreed with Shri Mann, and on June 23, 1971 a notification under section 6 of the Land Acquisition Act was published.

After the publication of the notification under section 6, the file came to Shri M. Shankar who was then the Administrator of Urban Estates, Faridabad. Shankar says that Mann told him on telephone that he desired that the acquisition proceeding should be expedited and completed by July 10, 1971. Shankar marked the file to the Land Acquisition Collector O. P. Yadav on June 24, 1971 directing him to take immediate action. According to Yadav, Shankar called him personally and asked him to complete the acquisition proceedings and take possession of the land by July 10, 1971 without fail because the Government had given an "undertaking" to Shri Sanjay Gandhi that "possession would be given latest by the 10th July, 1971". Shankar had also told him that he was only conveying the message he received from R. S. Mann, Director, Town and Country Planning. Yadav says that "in fact by the time it was generally known that the Government at the highest level had made up its mind to acquire the land because the major portion of it was intended for allotment to Shri Sanjay Gandhi" and that he had "no option but to complete the proceedings" by July 10, 1971. Shankar's evidence corroborates what Yadav has said except that he denies having told Yadav that possession was to be delivered to Sanjay Gandhi.

The facts in the background which lent urgency to the land acquisition proceedings appear from Shri Mann's statement before the Commission :

"That during the period from 24-2-71 to 23-6-71 Shri R. C. Mehtani, former Officer on Special Duty to the Chief Minister enquired from me on several occasions to ascertain if expeditious steps were being taken to acquire land in Gurgaon for Shri Sanjay Gandhi...

The C.M. rang me up on 24-6-71, probably from Delhi. The C.M. mentioned that Shri Sanjay Gandhi had complained to him against the delay in the allotment of land for his car factory at Gurgaon. The C.M. wanted to know the reasons for the delay. I explained that in the matter of allotment of land, Shri Sanjay Gandhi was corresponding only with Industries Department and as such only the Industries Department would know the latest position in this regard..... The C.M. asked for a definite date by which land would be acquired and

possession given to Shri Sanjay Gandhi. I was aware that we had recently decided to issue the notification u/s 6 of the Land Acquisition Act but as I could not remember off hand the exact date of the publication of the notification u/s 6, I told the C.M. that the notification u/s 6 had been issued and the possession of the land would be taken immediately after completing all the legal formalities including the announcement of the award. Upon this, the C.M. ordered that (a) it may be ensured that the acquisition proceedings are completed without a single day's delay and that the possession of the land is delivered to Shri Sanjay Gandhi latest by 10th July, 1971 and (b) the Director of Industries should be informed that a letter be issued the same day to Shri Sanjay Gandhi mentioning clearly that the State Government had decided to allot him about 300 acres of land in Gurgaon required by him for setting up a car factory there and that possession of the same would be handed over to him latest by 10th July, 1971. On receiving these orders from the C.M. I tried to get in touch with the F.C.R. and the Director of Industries who were found to be on tour out of Chandigarh. I finally contacted the F.C.R. at Faridabad on telephone and apprised him of the above mentioned orders of the Chief Minister. The F.C.R. told me that the orders of the C.M. should be complied with immediately and that as directed by the C.M., the Industries Department be asked to issue the required letter the same day. The F.C.R. also said that we may give the option to Shri Sanjay Gandhi of choosing the 300 acres of the total land which was being acquired by us. I then got in touch on telephone with Shri V. K. Khanna, T.E. (ME), Industries Department who was dealing with the case of allotment of land to Shri Sanjay Gandhi for the small car project. I conveyed to him the orders of the C.M. and the F.C.R. It was made clear to him by me that these orders were to be carried out meticulously. It was also mentioned by me that the letter to be sent to Shri Sanjay Gandhi may be despatched through a special messenger and, if possible, it should be shown to the F.C.R. before delivering the same to Shri Sanjay Gandhi. Accordingly, Shri Khanna issued a letter dated 24-6-71 to Shri Sanjay Gandhi".

Along with the letter was sent a layout of the Gurgaon Development Plan indicating therein the land which was being acquired for industrial purposes, and Shri Sanjay Gandhi was requested to mark the 300 acres that he would like to be allotted to him out of this area.

Shri Mann says that "in accordance with the categorical orders of the Chief Minister and the F.C.R." he spoke to Shri Shankar on telephone and "explained the whole position to him and asked him to direct

the Land Acquisition Officer to complete all acquisition work most expeditiously...". Mann however adds that although he told Shankar that the "land was proposed to be allotted to Shri Sanjay Gandhi", he instructed Shankar to tell the Land Acquisition Collector that while completing the acquisition proceedings "all the legal requirements should be scrupulously adhered to". In view of what Mann says, it seems likely in spite of Shankar's denial that Shankar did tell the Land Acquisition Collector that possession of the land being acquired was to be given to Sanjay Gandhi. It does not appear however that either Mann or Shankar left any instruction for the Land Acquisition Collector as to what he should do if after adhering to all the legal requirements he did not find it possible to conclude the proceedings by the target date. The question is important in view of the way the proceedings appear to have been conducted.

According to Land Acquisition Collector O. P. Yadav, Shankar told him not to proceed further for the acquisition of the lands of village Inayatpur at that stage though these lands were also covered by the notification under section 4. In the file there is a note stating why Inayatpur lands were left out; the reason mentioned was that there was "very little time" for taking steps for the acquisition of these lands. Yadav admits that the average cost of land per acre would have gone up had Inayatpur lands which were more valuable been acquired simultaneously. Want of time could of course be a reason for excluding Inayatpur if the acquisition proceedings were to be completed by the target date, but two other facts which may be relevant on this aspect are that the land allotted to Maruti Ltd. (the company was incorporated on June 4, 1971) was wholly outside Inayatpur, and the cost charged from Maruti Limited was the average price per acre of the area acquired first. Therefore if Inayatpur lands were acquired simultaneously, the average price per acre of land payable by Maruti Limited would have been higher.

In order that the acquisition of the land of the other four villages could be completed by the target date, public notice under section 9 of the Land Acquisition Act was issued on the very day Shankar had marked the file to Yadav i.e. June 24, 1971, giving interested parties fifteen days' time to file their claims to compensation, which is the minimum period prescribed under section 9(2). July 10, was the date fixed for the hearing of the claims. It appears from the file that on the same day, June 24, 553 notices were also served in the four different villages on the persons interested under section 9(3) of the Act. Yadav was asked how it was possible to prepare and serve all these notices in a day, his reply was that the notices had been partly prepared even before the issue of the notification under section 6, and after Shankar spoke to him on June 24, the notices were filled in by adding the other necessary particulars like the time and place for hearing of the claims to compensation, and then these notices were served with the help of eight patwaris and three process servers—all in one day, June 24. While it is doubtful whether all these notices could be served in a day on so many persons scattered over four villages it appears that many of the notices

were not served personally. In village Sarhaul, for example, out of 117 persons interested only 12 were served, the other notices were pasted on the walls of a school building; the explanation offered is that the others had refused to accept the notice. It is not disputed that a large number of persons holding land in village Mullahera did not live in the village and had no agents authorized to receive notice on their behalf; to these persons the notices were sent by post as required under section 9(4) on June 25 and at least some of them who lived outside the State must have received the notice a few days later. To these persons the notice was short of the barest minimum of fifteen days, but the date of hearing was not postponed.

On June 25, 1971 Sanjay Gandhi replied to the letter of June 24 from the Director of Industries indicating the plot he required by marking it in blue ink in the layout sent to him. In his reply Sanjay Gandhi also wanted immediate possession of the land. Three days later, on June 28, Mann received a letter from the Directorate of Industries requesting him to ensure that Sanjay Gandhi was given possession of 300 acres of land by July 10, 1971 at the latest. It was further suggested in the letter that Mann might indicate the amount payable for the land to be acquired as well as the mode of payment. Dealing with this letter Mann recorded a note on the file on June 29, 1971. The note says that the Director of Industries had neither sent the application of Sanjay Gandhi to him, nor stated the basis for allotment of 300 acres of land to him. However, the note proceeds, in view of the importance of the project, steps had already been taken by the Town and Country Planning Directorate to acquire an area of 450 acres of land and that, as decided by the Government in the Industries Department, out of this Sanjay Gandhi might be given the 300 acres chosen by him. The note suggests allotment of undeveloped land to Sanjay Gandhi on the same terms and conditions on which land was allotted to Haryana Steel and Alloys Limited. It may be stated that Haryana Steel and Alloys Limited was asked to pay the entire acquisition cost including certain additional charges before possession of the land was delivered. In the end Mann sought orders on the following points :—

- (i) Whether Sanjay Gandhi should be allotted 300 acres of land as shown in the development plan?
- (ii) If so, on what conditions and at what price the land was to be allotted, and whether possession was to be given after obtaining the cost for acquisition or before such cost was recovered from the party?

M. L. Batra, Financial Commissioner (Revenue), in his note dealing with the points raised by Mann agreed that 300 acres of land might be allotted to Sanjay Gandhi adding that he should be asked to pay the cost of the land, equal to the acquisition cost, before possession was delivered. Batra also approved the execution of an agreement on the same lines as done in the case of Haryana Steel and Alloys Limited. He suggested that the case might be put up before the Chief Minister and thereafter approval of the Finance

Department obtained. He said that, if the party wanted any modification of the terms and conditions suggested, the matter could be considered later. A note recorded by Mann on June 30, 1971 discloses that Chief Minister Bansi Lal had called him and discussed the case with him. The Chief Minister approved Batra's recommendations and wanted a letter to be written to Sanjay Gandhi on those lines also stating what the cost of acquisition would be. When Mann pointed out that the award in the land acquisition proceeding was yet to be made, he wanted Mann to indicate the approximate cost in the letter. Mann wrote a letter to Shri Sanjay Gandhi on the same day as directed by the Chief Minister. In the letter it was mentioned among other things that the cost of acquisition was expected to be roughly Rs. 12,000 per acre. The following is a relevant extract from this letter :

"It has been the policy of the Government regarding the terms of allotment of land to companies like yours, to give land at the price equivalent to the acquisition cost. A contract between the Government and the party is entered through an agreement, and the possession of the land is given after the agreement has been signed, and the full acquisition cost has been paid. Subsequently, the terms embodied in such an agreement are formalised through a registered deed. An agreement concluded by the Government in another case is enclosed for your information and guidance. Regarding the cost of acquisition of land in Gurgaon, the final award is to be announced in a few days time, and as such at this stage it is not possible to give a firm idea about the cost. However, on a purely rough basis, it is expected that the acquisition cost is likely to be in the neighbourhood of Rs. twelve thousand per acre.

Since the agreement mentioned above is only a model agreement, you are requested to indicate if it is acceptable to you in full or you wish to suggest any changes therein. After hearing from you in this regard, the agreement would be finalised and signed. To expedite the matter, an early reply is requested"

To a question, on what basis the cost of land was calculated at Rs. 12,000 per acre, Mann replied that he may have based his estimate on the figures supplied by V. S. Ailawadi. What happened was that on June 25, O. P. Yadav, Land Acquisition Collector had requested the office of the Deputy Commissioner, Gurgaon, to send him the prevailing market rates for different kinds of land in the different villages which were being acquired. On June 30 the rates approved by Ailawadi, Deputy Commissioner, Gurgaon were sent to the Land Acquisition Collector. Mann was apparently referring to these rates

Sanjay Gandhi did not reply to the letter written to him by Mann under the direction of Chief Minister, Bansi Lal. But on July 3, 1971 a meeting took place

in Sector 10, Circuit House of the Haryana Government at Chandigarh between Sanjay Gandhi and the representatives of the Haryana Government. Jagdish Prasad, a director of Maruti Limited, accompanied Sanjay Gandhi; Haryana Government was represented by the Chief Minister, Financial Commissioner (Revenue) M. L. Batra, Finance Secretary J. K. Sarohia, Director of Industries L. C. Gupta, Chairman of State Electricity Board P. N. Sawhney and, Director of Town and Country Planning R. S. Mann. Before the meeting with Sanjay Gandhi was held, the Chief Minister called the officers to his residence for a discussion. Mann in his deposition has said that the Chief Minister suggested in this conference that Sanjay Gandhi should be asked to pay not the acquisition cost of the land but a lower sum. Only a few days ago Chief Minister Bansi Lal had approved Batra's recommendation that Sanjay Gandhi should be asked to pay a sum equal to the acquisition cost and Mann conveyed this to Sanjay Gandhi. Both Batra and Mann objected to Bansi Lal's suggestion saying that this would be "unwise" and that the Government should ask Shri Gandhi to pay at least the acquisition cost if not certain additional charges which had been realised in some cases. The Chief Minister also produced an unsigned letter claimed to be a copy of a letter written to the Uttar Pradesh Government by Jagdish Prasad, a director of Maruti Limited who accompanied Sanjay Gandhi to Chandigarh. The letter showed that Maruti Limited has asked for a number of concessions from the U.P. Government for its car project. There is however no record that the U.P. Government received any such letter or accepted the proposals made therein. Later in the day the representatives of the Haryana Government met Sanjay Gandhi in the circuit house where Shri Gandhi was staying. According to Batra the decision to hold the meeting there was Chief Minister's. The minutes of the meeting show that among others, the following decisions were taken.

I. LAND

- (a) 300 acres of undeveloped land was to be allotted for putting up the car manufacturing unit near Gurgaon. The acquisition proceedings should be expedited so that possession could be handed over to the party by 10th/11th July, 1971 at the latest.
- (b) The price of acquisition was to be recovered by "10 per cent down payment and rest in 18 equal annual instalments starting two years after allotment of the land"; rate of interest payable was 7%.
- (c) The land was to be utilised only for setting up the car manufacturing unit.

II. FINANCIAL ASSISTANCE

- (a) The exact quantum of assistance was to be determined only after going into the feasibility report and the financial needs of the unit. The State Government was however prepared to underwrite 25 per cent of the share capital upto an aggregate sum of Rs. 1.25 crores in preference shares.

- (b) Inter-State sales tax and purchase tax on raw material purchased in the State were to be treated as interest-free loan for a period of five years from the date of production. This loan was recoverable after a period of five years and would be payable in a further period of five years in ten equal six monthly instalments.

III. POWER

It was agreed that the power requirements of the factory would be met on a priority basis. While the site for installing the transformer etc. would be made available by the unit, its cost would be borne by the Haryana State Electricity Board.

Shri Batra says that in the meeting Sanjay Gandhi mentioned one by one the various concessions he wanted and decisions on the points raised were taken by the Chief Minister, the officers present had no occasion to express any opinion except for pointing out some factual matters. Shri Mann says the same thing, that it was Sanjay Gandhi who "made his own suggestions and they were readily agreed to by the Chief Minister". According to Shri Batra so long as he was in the State Government he did not come across any other case where such liberal terms of payment as in Maruti's case were allowed. As regards treating the proceeds of sales tax as interest-free loan for five years, Shri Batra points out that this was a relaxation of the restrictions put by the State Government not to allow concessions of this kind in the cases where the capital investment exceeded Rs. 1 crore. L. C. Gupta says that to his knowledge there was "no such instance of any other unit in Haryana" where concessions on this scale "were provided and the decision in this regard also was taken by the Chief Minister". Mann's statement on this aspect is similar. "My knowledge is", he says, "that such liberal terms of payment of the price of the land have not been given to any other party either before this case or after this case". Mann has further said that an impression was sought to be conveyed in the meeting that the U.P. Government had accepted the terms suggested by Sanjay Gandhi for Maruti Limited and the Haryana Government should also therefore agree to the said terms. The suggestion had really no basis as the only material produced in support was the aforesaid unsigned letter.

The Land Acquisition Collector had announced that the award would be made on July 10, 1971. July 10, however, was a holiday. When Shri O. P. Yadav, Land Acquisition Collector, found that the Treasury Officer would not issue cheque books to him on a holiday, he approached Shri M. Shankar, Administrator, Urban Estates, on July 9. Shankar wrote to the Treasury Officer on that very day asking him to issue the cheque books. Shankar in his deposition has said that he cannot recollect any other case in which he had written a similar letter.

On July 10, 1971 the Land Acquisition Collector received in all 191 claims from four villages. He fixed 8 A.M., 10 A.M., 12 Noon and 2 P.M. for hearing

the claims from villages Mullahera, Dundahera, Sarhaul and Shahpur respectively. However, according to O. P. Yadav, Land Acquisition Collector, by 1 P.M. all the claimants had been heard; this was possible, Yadav says, because the claims were stereotyped. After hearing the claims, Yadav asked the claimants present to come at 5 P.M. when, he said, he would announce the award. He took the signatures or thumb impressions of the claimants on blank sheets of papers, according to Yadav, "just to ensure that they should be present at the time of announcing the award". This was an unusual thing and there is no explanation why Yadav took such a step. He made a separate award for each of the four villages and altogether the awards run into 74 typed pages. Each award deals with the classification of lands, their market price and the valuation of wells, trees, crops, buildings etc. Yadav started announcing the awards at about 5.20 P.M. After the announcement was over, compensation was paid to those who were willing to accept it. About 35 cheques were prepared and made over to the claimants. Possession of the acquired lands was taken immediately thereafter by the Land Acquisition Collector proceeding to the site in a jeep. This exercise took about an hour.

Yadav was asked how he could hear the objections and prepare the awards which cover 74 pages, all within such a short space of time. Yadav says that he had earlier worked out an average price rate of the different classes of land and trees, structures and other relevant items and, after hearing the claimants, he finally determined the rates. Yadav says further that he also had parts of the awards typed earlier which did not depend on determination of the claims. Yadav also came out with the following details. He had one typist, one stenographer, and eight or nine men of his staff to help him. Starting with village Mullahera from 8 A.M., within an hour or so he heard all the claimants, made up his mind as to the rates of compensation for the different classes of lands and other items and conveyed his decision to his staff who calculated the figures in case of each claimant and in respect of each item in accordance with the rates determined. It went on this way in respect of the other villages, and before 2 P.M. all calculations were completed. Thereafter he started dictating the operative portions of the awards which took also about an hour. Then the typing of the awards started. Men of his staff who had made the calculations incorporated the figures in the awards. He read the awards before he signed them, and the awards were announced, as already stated, at about 5.20 P.M. Doubt was expressed by counsel assisting the Commission and also by counsel appearing respectively for the Central Government and the Government of Haryana, as to whether it was possible in the span of a little over three hours to do all these exercises,—dictating the operative portions of the awards and having the awards typed with the assistance of one stenographer and one typist, even if part of the awards had been prepared earlier, and then reading through 74 typed pages before announcing the awards. Counsel suggested that the awards were completed beforehand and kept ready and the hearing of the claims was only a formality that had to be gone through. A circumstance which appears to be relevant in this connection may be mentioned. The average rate of compensation per acre awarded by Yadav was Rs. 11,776.32, and S/8 HA/79—6

this is almost the same as the average calculated from the figures supplied by Ailawadi to Yadav on June 30, 1971. Mann writing to Sanjay Gandhi on the same day mentioned almost the same figure as the approximate price of the land per acre. Mann calls it a coincidence. Mann also says that the price stated in his letter to Sanjay Gandhi may have been gathered from the rates conveyed by Ailawadi to Yadav, but he was not categorical that this was so; if it was not so, then the concurrence would appear to be more than just a coincidence. If again, Mann was relying on the data collected by Ailawadi, the question that remains to be answered is how the information sent by Ailawadi from Gurgaon to Yadav at Faridabad on June 30, was available to Mann at Chandigarh on the same day. It appears from a note in the Deputy Commissioner's file (D.R.A. Branch) made by Ailawadi on June 28 that Mann had telephoned him, presumably earlier in the day, "to request Collector's rate for this land, which should be sent to the L.A.O. Faridabad within a week's time". The file does not show that a copy of the rates approved by Ailawadi was sent to Mann, nor does Mann claim that he telephoned Ailawadi again after June 28 to inquire about the rates.

In answer to a question why in this case the calculations were done and part of the awards typed in advance which admittedly was not the usual practice, Yadav says that "this case was treated as a very special case". He also says that "it was generally known that the Government at the highest level had made up its mind to acquire the land because the major portion of it was intended for allotment to Shri Sanjay Gandhi" and, therefore, he "had no option but to complete the proceeding" in the way he had done. The manner in which the acquisition of land in these four villages was hustled may be contrasted with the acquisition proceeding in respect of the land of village Inayatpur which, it may be recalled, was completed later. In the case of Inayatpur land, Shri N. L. Nanda, Land Acquisition Officer, issuing notice under section 9 of the Land Acquisition Act on August 30, 1972 gave the interested persons twenty days' time to submit their claims and the award was announced on November 24, 1972, though the area acquired was only 24.11 acres. It may be also stated that if the Inayatpur land was acquired with the lands of the other four villages, the price payable by Maruti Limited for the plot allotted to it would have gone up by more than Rs. 25,000.

The total compensation paid for land acquisition in the four villages, Mullahera, Dundahera, Shahpur and Sarhaul came to Rs. 49,52,414.33. The amount was drawn on the budget of the Department of Urban Estates without any reference to the Finance Department. This was contrary to the decision taken earlier. It may be recalled that R. S. Mann, Director of Town and Country Planning and Urban Estates, had himself stated in his note dated April 2, 1971 that there was no provision in the budget of the Department of Urban Estates for acquiring the aforesaid land and suggested that a provision might be made in the supplementary estimates. The recommendation of the Financial Commissioner (Revenue) on that note was that the matter might be taken up with the Finance Department, which the Minister concerned approved on April 9, 1971.

The broad terms on which land was to be allotted to Maruti Limited, as decided in the meeting held on July 3, 1971, were approved by the Finance Department on July 13, 1971. Finance Secretary Shri J. S. Sarohia who was present in the meeting of July 3 has told the Commission that he informed the Finance Minister about the meeting on or about July 6. The Finance Minister had not been asked by the Chief Minister to attend the meeting with Sanjay Gandhi held on July 3, nor were the Industries Minister and the Minister for Public Works. Thus none of the three Ministers whose departments were vitally concerned in the matter of allotment of land to a new industry was invited to the meeting.

After the acquisition proceedings were completed, steps were taken to draw up an agreement on the basis of which land was to be allotted to Sanjay Gandhi. The matter was discussed by Mann with the Assistant Legal Remembrancer R. K. Gupta, and a draft agreement was made ready. On August 9, 1971 these two officers took the draft to Delhi to have it approved by Sanjay Gandhi. This they did, according to Mann, on the direction of Batra. Batra denies this and suggests that the impelling power behind Mann's trip to Delhi was the Chief Minister's order that Sanjay Gandhi must be given possession of the land before July 10, 1971, and the date had already expired. R. K. Gupta says that he went to Delhi "under orders of the Legal Remembrancer". S. C. Goel, who was the Legal Remembrancer then, has told the Commission that it was Batra who asked him on telephone to send some law officer to Delhi with Mann and he sent R. K. Gupta. It seems therefore that the officers carried the draft agreement to Delhi in obedience to Batra's order. The order was Batra's but he must have given the order because the Chief Minister had set a target date. Later, in an affidavit sworn on September 4, 1978 in response to a notice issued to him under section 8 B of the Commissions of Inquiry Act, 1952 Mann has clarified the position. He says :

"On the 6th or 7th of August, 1971, Secretary Shri Batra told me that the Chief Minister had given orders that I should immediately proceed to Delhi to have the agreement signed from Shri Sanjay Gandhi and to deliver the possession of land to him. My Secretary also told me that I should take along with me the Assistant Legal Remembrancer, Shri R. C. Gupta, so that if there were any minor modifications suggested by Shri Gandhi, the same could be studied on spot and a decision taken. He told me that he had already spoken to the L. R. (Legal Remembrancer) and the latter had agreed to depute his A.L.R., Shri Gupta, to accompany me to Delhi. Accordingly, Shri R. K. Gupta, and myself went to Delhi with the draft agreement. I had also rung up Shri Shankar, Administrator (Urban Estate) at Faridabad and asked him to join me at Delhi on 9th August, 1971 and then to accompany me to the Prime Minister's House".

Shankar joined them at Delhi as directed. The three of them took the draft agreement to Sanjay Gandhi at

No. 1, Safdarjung Road on the morning of August 9. Sanjay Gandhi suggested some minor modifications and the officers left the draft to be finalized by him and came away. They called on him again in the afternoon when they found the agreement typed on stamp paper. Sanjay Gandhi signed the agreement on behalf of Maruti Limited and gave Mann a cheque for Rs. 3,53,289 which was equivalent to 10 per cent of the total price of land at the rate of Rs. 11,776.32 per acre. It appears that the stamp paper on which the agreement was typed does not bear any endorsement as to who was the vendor from whom it was purchased and by whom, when and for what purpose. The Assistant Legal Remembrancer, R. K. Gupta, has said in his deposition that he did not pay any attention to this feature and thought that the agreement was properly executed.

Next day, August 10, 1971, Mann again went to No. 1, Safdarjung Road from where he accompanied Sanjay Gandhi, his brother Rajiv Gandhi and R. K. Dhawan, who was then working on the personal staff of the Prime Minister, to the site at Gurgaon. Shankar and some employees of the Town and Country Planning Department were waiting for them. The area which was to be allotted to Maruti Limited had already been demarcated. The entire party went round the land, and possession was formally given to Sanjay Gandhi. Later a certificate of delivery of possession containing Sanjay Gandhi's signature and indicating the area as 296.8 acres was received in the office of the Administrator, Urban Estates, Faridabad. Counsel for the Central Government asked both Mann and Shankar whether it was usual in Haryana for senior I.A.S. officers to go to the house of an intending purchaser of land for completing the transaction as they did in this case : Mann's answer was, "we did not do such things we did not do that before and after".

About a week after possession of the land was delivered to Sanjay Gandhi, R. S. Mehtani, Officer on Special Duty to the Chief Minister of Haryana, requested Mann on telephone not to present the cheque given by Sanjay Gandhi for encashment for sometime ; Mehtani did not disclose the reason for making such a request. The cheque was drawn on Punjab National Bank, Parliament Street, New Delhi, No. PGK 605826 dated August 9, 1971. It appears that Maruti Limited opened an account, No. C/A 3371, with Punjab National Bank on August 7, 1971 by a cash deposit of Rs. 100 only. On August 9, 1971, the day on which Sanjay Gandhi made over the cheque to Mann, a further sum of Rs. 2,00,000 was deposited in the account. Thus on August 9 Maruti Limited did not have sufficient funds in the bank to cover the amount for which the cheque was given. On August 14, 1971 another sum of Rs. 3,00,000 was credited raising the company's cash balance to Rs. 5,00,100. The amount of the cheque appears to have been debited from the company's account in the bank on September 25, 1971, 47 days after the cheque was issued.

Some of the provisions of the agreement entered into by and between the Government of Haryana and Maruti Limited which was signed by Shri Sanjay Gandhi for the company on August 9, 1971 may now be

considered. The document is described as an agreement for sale. Paragraph 1 of the agreement dealing with the question of price states *inter alia* that the total cost of the land allotted was Rs. 35,32,896 at the rate of Rs. 11,776.32 p. per acre. The price charged was the actual acquisition cost following the decision taken on July 3, 1971. Paragraph 3 lays down the manner of payment of the price and the number of instalments in which it was to be paid. Each instalment was to be paid within thirty days from the date on which it became due and, if the company failed to make the payment within a period of one year from the date on which any amount fell due, "the Government may resume the said site along with any building constructed and machinery installed thereon on terms and conditions mentioned in paragraph 12". Under paragraph 7 the company was prohibited from transferring any interest in the land by sale, mortgage, gift or otherwise without prior written permission of the Government unless the site had been fully utilised for industrial purposes and all payments had been made in full. Paragraph 8 of the agreement required the company to use the site mainly for industrial purpose and prohibited its use for a materially different purpose without prior written permission of the Government. Paragraph 12 of the agreement states that in the event of failure on the part of the company to carry out the terms of the agreement "the site shall be liable to be resumed on refund to the company the amount of the award relating to the acquisition of land less 15 per cent of the amount awarded for compulsory acquisition".

As the value of the land allotted to Maruti Limited by the Haryana Government was over Rs. 75,000, clause 13 of the Schedule to Haryana Rules of Business, 1963 was attracted requiring approval of the Council of Ministers to the transfer. In this case the approval of the Council of Ministers was not taken before the agreement was signed by Sanjay Gandhi. This was pointed out by the Additional Director, Town and Country Planning, in his note dated December 30, 1971 and a memorandum was put up for approval of the Cabinet. The Cabinet gave *ex-post facto* approval to the transfer on January 10, 1972. The agreement with Maruti Limited which Sanjay Gandhi had signed on behalf of the company on August 9, 1971 was signed by the Financial Commissioner (Revenue) for the Haryana Government on or about January 20, 1972.

Maruti Limited built several structures on the land. The more important of them, which are also relevant for the present purpose, are: (i) the Research and Development Wing, (ii) the main factory building, (iii) the structures built at Gate Nos. 1 and 2 which have been described as Gates 1 and 2 complex, and (iv) the five storeyed Staff Quarters. All these constructions appear to have been made either in violation of some statutory provision or in disregard of some other kind of prohibition. The relevant facts are as follows.

Rule 3 of the Punjab Factory Rules, 1952 framed under section 6 of the Factories Act, 1948, which are applicable also to Haryana, prohibited construction of

any building on any site on which a factory was to be situated or for the extension or use as a factory or a part of a factory unless a previous permission in writing was obtained from the Chief Inspector of Factories. The application for such permission was required to be made in the prescribed form, —form No. 1 with relevant plans and specifications. Rule No. 7 required the occupier of every factory to submit to the Chief Inspector an application in form 2 for the registration of the factory and for the grant of licence. Maruti Limited applied for registration in form No. 2 on March 31, 1972. On certain defects being pointed out in the plans which were sent along with the application of the company, the company submitted an amended plan on May 30, 1972 which was approved on July 12, 1972. In the application Maruti Limited mentioned the date of construction of the building as sometime in January 1972. Before applying in the prescribed form, Maruti Limited appears to have written two letters to the Chief Inspector of Factories on January 29, and February 24, 1972 asking for some guidance on form No. 2. In the earlier letter which was signed by Sanjay Gandhi, it was said that they were in the process of occupying the factory. This would indicate that the factory building —it was the Research and Development Wing as would appear from the deposition of A. D. Kolhatkar who was Manager, Personnel and Factory Administration, —had been completed, or at least nearly completed, before the company made the application in form 2. There was thus a clear violation of section 6 of the Factories Act, 1948 read with rule 3 of the Punjab Factories Rules, 1952. It is also to be noted that there was no application in form 1.

Gates 1 and 2 complex includes Employees State Insurance building, buildings housing a bank and a post office and several other structures. Construction of this complex commenced in May 1972 and completed in June 1974. Pradhan Ghosh and Associates, Consulting Architects, were the designers of Maruti's factory, gates complex and the staff quarters. According to their Chief Engineer K. M. Prahlad the arrangement between his employers and Maruti Limited was that the architects would prepare the drawings and forward them to the "Maruti people" who were to submit the drawings to the authority for approval. J. N. Bhargava, Assistant Estate Officer, Faridabad, says that Maruti Limited had submitted two plans in September 1971 and February 1972 respectively, then a revised plan No. 2030 on December 21, 1972 for the Gates 1 and 2 complex and the Staff Quarters. B. D. Behl who was Assistant Engineer, Town Planning, Faridabad, from May 1973 to November 1973 has told the Commission that two main deficiencies in the revised plan were pointed out to Maruti Limited. One of them was that the Staff Quarters, shown in the plan as a five storeyed building, infringed the zoning plan published under rule 48(2) of the Haryana Scheduled Roads and Controlled Areas Restrictions of Unregulated Development Rules, 1965 framed under the Punjab Scheduled Roads and Controlled Areas Restrictions of Unregulated Development Act, 1963. The zoning plan prohibited construction of buildings having more than two storeys and beyond 30 feet in height. According to Shri Prahlad, the staff quarters, as originally planned, was to have four storeys, and

the drawings were prepared accordingly. Then Maruti Limited wanted two more storeys to be added. The architects replied that the load catered for could allow only one more floor, and in the plan that was finally submitted it was shown as a five storeyed building. In the zoning plan an exception was made in the case of administrative buildings, but the staff quarters was not an administrative building. The other deficiency pointed out was that the Gates 1 and 2 Complex was within 30 meters from Delhi-Gurgaon road which was part of Delhi-Alwar road and Delhi-Alwar road was a "scheduled road" under the Punjab Scheduled Roads and Controlled Areas Restrictions of Unregulated Development Act, 1963. Scheduled road has been defined in the Act as a road specified in the Schedule of the Act. Section 3 of the Act prohibits, among other things, erection of buildings within 30 meters on either side of the road reservation of any scheduled road. For the above reasons, Plan No. 2030 was rejected on February 8, 1973. Behl says that when the deficiencies were brought to the notice of Maruti Limited, it was said on their behalf that they would have the rules relaxed by the Government. No rule was however relaxed. Though the plan was not sanctioned by the concerned authority, Maruti Limited started and completed the construction of Gates 1 and 2 Complex and the Staff Quarters. In spite of this, no step appears to have been taken to prevent construction of the five storeyed building described as the Staff Quarters. As regards Gates 1 and 2 Complex, Shri Ram Lal, Building Inspector, and Shri J. N. Bhargava, Assistant Estate Officer, of the Department of Town and Country Planning, when they found the structures to be within 30 meters of the Delhi-Gurgaon road made attempts to stop further construction but without success. Gates 1 and 2 Complex and the Staff Quarters were both completed in June 1974.

Building Inspector Ram Lal and Assistant Estate Officer J. N. Bhargava have narrated their experience before the Commission. On March 27, 1973 Ram Lal saw some digging work going on near the boundary wall of the Maruti factory, apparently for laying the foundation for structures to be raised at the place. He wanted to inspect the premises and for this purpose sent in his name and designation on a piece of paper to the company's office inside. He waited for about an hour and a half but was not called in. On April 25, 1973 when he next visited the site he found that the constructions had reached the roof level. He again sought permission to enter the premises for inspection but did not receive any response. The same day he reported the matter to Bhargava, Assistant Estate Officer, who was also acting as Estate Officer at the time. Next day, April 26, both of them came to the site in a jeep of the Town and Country Planning Department and they were allowed to drive in. They stayed inside the Maruti premises for about a couple of hours. Bhargava went to Maruti's office and disclosed his identity. Ram Lal took measurements of the buildings under construction and prepared a sketch plan. As the constructions were within 30 meters of a scheduled road violating the provision of section 3 of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963, he prepared and served a notice on the spot on Shri

S. M. Rege, Secretary of Maruti Limited, to show cause within 15 days why the company should not be ordered to restore the land to its original shape. Maruti Limited replied to the notice on May 4, 1973. The reply was not found satisfactory, and on May 21, 1973 Shri Bhargava issued a demolition notice. On June 24, 1973 Bhargava and Ram Lal visited the site again when they found construction going on notwithstanding the demolition order served on the company. In reply to the demolition notice, the company made a request for compounding the offence, if any, under the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963. Section 14 of the Act deals with composition of offences made punishable under the Act. No order allowing composition was made in respect of the unauthorised constructions, yet the demolition order was not carried out. What Shri Bhargava did was to submit a report to the Administrator, Urban Estates, who wrote to the Director, Town and Country Planning, on the subject. Bhargava says that he knew that the offence could not be compounded, but "since the matter related to a high-up" he thought it "safe" to seek guidance of his superior officers. It was Bhargava's duty as Estate Officer to carry out the demolition order. Asked why this was not done his explanation was : "I did not carry out demolition because more than 5,000 cases in which demolition orders had been passed were pending and no demolition had been carried out. Secondly, I had no machinery to carry out the demolition. Thirdly, I was holding dual charge of the post of Assistant Estate Officer as well as Estate Officer. The month was closing and I was the Drawing and Disbursing Officer also. In case the demolition was to take place, I would have had to go to Gurgaon and spend a few days arranging for labour and police help and other things. So I put up a note to my Administrator". Counsel assisting the Commission pointed out to Shri Bhargava that the fact that demolition orders passed in other cases had not been carried out, could not be a justification for not giving effect to the order passed in this case, and that the other reasons given by him were also equally unconvincing; Bhargava's only reply was that he was trying to explain his difficulty.

Shri Pritam Singh, Administrator, Urban Estates, Faridabad, to whom Bhargava submitted his report says that he was asked by Maruti Limited to compound the offence relating to the constructions within 30 meters of the scheduled road. He explained to the company's Public Relations Officer who saw him in this connection why the offence could not be compounded, but the latter was not satisfied and asked him to explain the position to Shri Sanjay Gandhi, Managing Director of the company. According to Pritam Singh, Sanjay Gandhi told him, "when you are compounding in other cases why not in my case". Pritam Singh thought it was a "very serious matter" because Sanjay Gandhi might "complain to higher authorities" against him and tried to find out the cases where composition had been allowed. According to Pritam Singh, the cases he found were all where only small rooms had been constructed and that also immediately after the Punjab Scheduled Roads and Controlled Areas Regulation of Unregulated Development Act, 1963 came into force when the position in

law was not very clear. Among these cases again there were only two where Pritam Singh had allowed composition, in one case it was a boundary wall, and in the other a watch and ward room measuring 8' x 10' along with the gate. In these cases a minor penalty had been imposed. There was no precedent for such buildings as were constructed by Maruti Limited. Pritam Singh expressed his inability to allow the offence committed by Maruti Limited in raising the aforesaid structures to be compounded. To protect himself he wrote a letter on June 26, 1973 to Shri R. S. Mann, Director, Town and Country Planning, stating all the facts. Mann brought the matter to the notice of Shri S. K. Misra, Principal Secretary to the Chief Minister. Misra spoke to the Chief Minister and informed Mann that the Chief Minister had spoken to Sanjay Gandhi about the matter who assured the Chief Minister that the illegal constructions would be removed. Mann conveyed this information to Pritam Singh on telephone. Mann also felt that because "it was a sensitive issue" the Administrator must have thought it desirable to keep the department informed. "The purpose of the Administrator writing to me", Mann says "was not that he wanted any action from me in the matter of removal of the structures but he had done so only with a view to ensure that he did not come to harm". Explaining the position Mann adds that the power to take action in the case of violation of the restriction on constructions within 30 meters of the scheduled roads initially vested in the Director, Town and Country Planning, but these powers had been delegated to the Administrator, Urban Estates, Faridabad, by an order of the Governor of Haryana dated June 3, 1969 and that the Administrator was therefore competent to take action in this case. The alleged assurance given by Sanjay Gandhi to the Chief Minister was not carried out, and no action was taken by the authorities on the demolition order passed.

It may be recalled that one of the objections taken by those whose land was acquired was that the land was within the 1,000 yards safety belt around an ammunition depot and very near an airfield, this objection was based on a notification issued by the Central Government, and a letter addressed by the Ministry of Defence to the different State Governments. The number and date of the notification and also of the letter were mentioned. The objection was however overruled on the ground that the objectors had failed to produce the relevant notification; the Land Acquisition Collector did not refer to the said letter in overruling the objection which also does not appear to have been produced. The objection that the land was within the safety belt around the ammunition depot was based on the provisions of the Indian Works of Defence Act, 1903 which is an "Act to provide for imposing restrictions upon the use and enjoyment of land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions". Whether the constructions made by Maruti Limited violated any of the restrictions imposed under the Indian Works of Defence Act, 1903 was debated in Parliament in December 1972 and also in February,

March and May 1973. Shri H. R. Gokhale and Shri V. C. Shukla who were respectively the Law Minister and the Minister of State for Defence Production at the time, both asserted in Parliament that no such restrictions attached to the area in question.

The nature and the source of the restrictions alleged to have been violated may be stated here. The provisions of the Indian Works of Defence Act, 1903 to which reference is necessary for the present purpose are these. Sub-section (1) of section 3 of the Act empowers the Central Government to make a declaration whenever it appears to the Government that it is necessary to impose restrictions upon the use and enjoyment of land in the vicinity of any work of defence. Sub-section (2) of section 3 states that the declaration which shall be published in the Official Gazette shall indicate the place where a sketch plan of the land to which the restrictions relate may be inspected. The Collector is required to cause public notice of the substance of the declaration to be given at convenient places in the locality. Section 7 enumerates the restrictions and states that they will attach to the areas mentioned in clauses (a), (b) and (c) of the section "From and after the publication of the notice" referred to in sub-section (2) of section 3. Section 7 provides for different forms of restrictions in clauses (a), (b) and (c) extending respectively to two thousand yards, one thousand yards and five hundred yards from the crest of the outer parapet of the work. The relevant clause in the case of Maruti constructions is clause (b) which says *inter alia* that no building, wall, bank or other construction of permanent materials above the ground shall be erected within a distance of one thousand yards from the crest of the outer parapet of the work. Apart from the provisions of the Indian Works of Defence Act, the Ministry of Defence appears to have written two letters on similar lines, one in 1956 and the other in 1966, addressed to the State Governments on the subject of construction of buildings and other structures in the vicinity of Air Force Installations. The purpose of the letters, to quote from the 1966 letters,⁽¹⁾ was that "with the introduction of jet aircraft and the rapid advancement in the field of electronics, it has become necessary for Government to have effective control over the construction of buildings or other structures in the vicinity of Air Force Installations and airfields, both occupied and un-occupied, in order to meet the Air Force technical requirements with reference to flying safety and the effective functioning of modern electronic equipment". The letter mentions a case where "a State Government commenced work on a tall structure, which being sited within the flying funnel of an adjoining airfield, would constitute a flying hazard and endanger the safety of the State as well as the Central Government's property". "In order to obviate such instances in the future", the latter suggests, "whenever a State Government/private party have plans to put up buildings or structures in the vicinity of an Air Force Installation occupied or un-occupied, this Ministry may be informed and asked to confirm that there is no objection. In the event of there being any objection in any particular case,

(1) Letter No. F. 2(9)/65/D (Air-II) dated July 4, 1966 addressed to the Chief Secretaries of different States and Chief Commissioners of Union Territories by Ministry of Defence, New Delhi.

the matter may be settled by mutual consultation between the Central Government and the State Government concerned". The letter concludes with a request to the State Governments to issue instructions in this regard particularly to the "Municipal authorities, local town planning authorities and the State Electricity Boards in addition to the District authorities concerned". Shri A. N. Thyagarajan, Deputy Secretary, Ministry of Defence, in his statement to the Commission has said that the request made in this letter had always been complied with and constructions constituting flight hazard had been stopped by the State Governments till "a legislation was available to enforce these restrictions in the flying funnel".

The facts relevant to this issue are as follows. Since 1942 lands from Gurgaon, Dundahera, Mullahera and some other villages in Gurgaon district of the then State of Punjab were either requisitioned or acquired or taken on lease from time to time for defence purposes. Some of the requisitioned lands were also de-requisitioned in the course of years. A considerable part of the land in the possession of the Defence Department in that area was occupied by 23 Army Headquarters Ammunition Depot and an Explosive Maintenance Unit (EMU) that was set up by the Indian Air Force in September 1948. Attached to the Explosive Maintenance Unit there was an airfield. On the recommendation of the Army Headquarters that the Defence Works Ammunition Depot in Gurgaon district should be classified as class B Zone i.e. with restrictions extending to 1000 yards from the crest of the outer parapet of the work, notification No. S.R.O. 315 dated November 30, 1962 was issued by the Ministry of Defence which was published in the Gazette of India on December 15, 1962. Along with the notification a sketch plan showing the clearance zone around the ammunition depot was forwarded to the office of the Deputy Commissioner, Gurgaon, for publicity as required under section 3(2) of the Indian Works of Defence Act. In March 1966 the Army Ammunition Depot moved out of that place and the area vacated by the army was taken over by the Air Force to expand its Explosive Maintenance Unit which was later renamed as 54 Air Storage Park (ASP). Thus, as Shri Thyagarajan says, regarding "the use to which the area was put, there was no change".

In 1968 the Air Headquarters thought that it was necessary to issue a fresh notification declaring the clearance zone around the area comprising the Air Force complex at Gurgaon. It is not explained why another notification was considered necessary if there was no change in the "use to which the area was put". However, a fresh declaration, S.R.O. 6 dated December 30, 1968 was published in the Gazette of India on January 11, 1969. It does not appear that public notice of this declaration was given as required but admitted the omission was not noticed by the authorities until December 1972. On reports received from the local Air Force authorities that a number of civilians had started constructions within the prohibited zone, the Ministry of Defence wrote to the Chief Secretary to the Government of Haryana on January 20, 1969 pointing out the restrictions upon the

use and enjoyment of land within 1000 yards of the ammunition depot in Gurgaon and requesting the State Government to take appropriate steps to remove the unauthorised constructions and prevent future constructions within the clearance zone. For the restrictions pointed out, the letter referred to the notification S.R.O. 315 of 1962 as the basis and not S.R.O. 6 of 1969. This was due to, as would appear from the letter, a mistaken impression that the 1969 notification had not been published. A reminder followed this letter in April 1969. In May 1969, Haryana Government wrote back to say that they had not received the letter of January 20, 1969. The Ministry of Defence sent a copy of the letter of January 20 in September 1969. In the meantime on February 4, 1969 Squadron Leader M. Ramchandran of Air Force, Gurgaon, had written to the Deputy Commissioner, Gurgaon, enclosing a copy of the letter of January 20. The Deputy Commissioner asked the Tehsildar to give wide publicity to the contents of the January letter so that no unauthorised constructions were put up in the area. Tehsildar's report dated April 10, 1969 shows that he carried out what he was asked to do. It was well known by this time that the Haryana Government was proposing to acquire land in Gurgaon District for Shri Sanjay Gandhi's car factory. On March 11, 1971 Squadron Leader Mohinder Singh wrote to the Headquarters maintenance Command saying that they had come to know that the Haryana Government proposed to acquire land in the area for the construction of a factory which, if set up, would constitute a security risk to the Explosive Depot as well as the airfield. The letter enclosed a copy of a circular letter dated August 13, 1956 from the Ministry of Defence which was addressed to the State Governments seeking to have a measure of control over the construction of buildings and other structures in the vicinity of the Air Force installations. Reference has been made earlier to this letter from the Ministry of Defence which was followed by a similar letter in 1966. A copy of Mohinder Singh's letter was endorsed to the Chief Secretary to the Government of Haryana where it apparently failed to produce any reaction because on June 23, 1971 the notification under section 6 of the Land Acquisition Act was issued and on July 10, 1971 the Land Acquisition Collector made his award.

On July 27, 1971 Squadron Leader Mohinder Singh wrote a "secret" letter to Military Estates Officer, Delhi Circle, copies of which were marked to Deputy Commissioner, Gurgaon, and Air Headquarters, New Delhi pointing out that acquisition by the Haryana Government of land so close to the ammunition depot was not desirable from the point of view of its security. On receipt of the copy Shri V. S. Ailawadi who was then the Deputy Commissioner of Gurgaon asked the District Revenue Assistant "to speak". The latter recorded a note that the file may be kept pending till a reference was received from the Military Estates Office. This suggestion was approved by Ailawadi on September 13, 1971. In the meantime on August 9, 1971 Shri Sanjay Gandhi had signed the agreement with the Haryana Government and taken possession of the land the next day. Though Shri Sanjay Gandhi had signed the agreement on August 9, 1971, as already

stated the document was not signed on behalf of the Haryana Government before January 20, 1972. During this period the Haryana Government received a number of letters from the Air Force officers, and one from the Ministry of Defence seeking to stop unauthorised constructions in the area. On August 19, 1971 Air Vice Marshal Harjinder Singh (Retired) who was working as Adviser, Civil Aviation, Haryana, being requested by Air Commodore A. C. Saigal through Squadron Leader Mohinder Singh to use his good offices, wrote to Shri M. L. Batra, Financial Commissioner (Revenue) and Secretary to the Government of Haryana, pointing out that acquisition of land in close proximity of Gurgaon Defence Aerodrome involved serious hazards for the defence operations "particularly when the Gurgaon Defence Aerodrome is to feed the Northern India with the high potential explosives". The Air Vice Marshal's letter enclosed copy of another letter dated August 2, 1971 addressed to him by Squadron Leader Mohinder Singh and Mohinder Singh's letter again had as its enclosure copy of the letter dated March 11, 1971 addressed by him to the Headquarters Maintenance Command, Indian Air Force. Shri Batra passed on Air Vice Marshal's letter with its enclosures to Shri R. S. Mann on August 23, 1971. At the instance of Mann a copy of the Air Vice Marshal's letter was sent on September 6, 1971 to the Land Acquisition Officer and M. Shankar, Administrator, Urban Estates, Faridabad, asking for their comments. On the next day, September 7, 1971, the Chief Secretary, Haryana, received a letter dated August 27, 1971 from Shri R. B. Pathak, Under Secretary to the Government of India, Ministry of Defence, in which the Government of Haryana was requested not to acquire land "in the vicinity of the airfield/explosive area at Gurgaon". By this time however Shri Sanjay Gandhi had already taken possession of the land. The reaction to this letter was only a note recorded in the office of the Director of Urban Estates that comments of the Administrator, Urban Estates, were awaited. More than one reminder was sent to the Administrator, Urban Estates, asking for his comments. On September 14, 1971 Shankar, Administrator, Urban Estates, wrote to V. S. Ailawadi, Deputy Commissioner, Gurgaon, only to know from him if the objections raised by Squadron Leader Mohinder Singh were valid.

Squadron Leader Mohinder Singh again wrote to Ailawadi on October 21, 1971 referring to the letter from the Ministry of Defence dated August 27, 1971 addressed to the Chief Secretary, Haryana, and requesting him to intimate the present position. Ailawadi next received a copy of a letter written by S. V. Kumar, Flying Officer, 54 ASP, on November 11, 1971 to the Military Estates Office, Delhi Circle, asking for a site plan indicating the perimeters of the runway and the air strip and the explosive areas. It appears that Mohinder Singh himself visited the area and found a boundary wall being constructed within 200 yards to the outer parapet of the Defence installation. He informed the Headquarters Maintenance Command of this fact on November 12 by a letter and endorsed a copy of the letter to Ailawadi. All these letters from the Air

Force Officers failed to have any effect at the other end.

About a month later, on December 10, 1971 Shankar wrote to Ailawadi urging him to send his comments immediately on the objections raised by the Air Force authorities. It appears from this letter that the urgency was felt because allotment of plots to the industrialists in the remaining portion of the acquired land was held up until Ailawadi's comments were received and not because of the pressing nature of the objections as such. On December 15, 1971 a letter was received in the office of the Director, Urban Estates from the Land Acquisition Officer, apparently in reply to the communication dated September 6, 1971, which said that the facts mentioned in the letter of the Ministry of Defence could be verified only after a measurement of the site. The letter does not explain why this was not done in about three months' time that he took to reply to the letter of September 6, 1971. However, the Land Acquisition Officer promised a detailed report within a fortnight. Pursuant to Mann's instruction, a letter from the Directorate of Urban Estates was addressed to Ailawadi on or about January 17, 1972 requesting him to inform the Directorate immediately what action had been taken in the matter.

After the agreement with Maruti Limited had been signed on behalf of the Haryana Government by Batra on January 20, 1972, Mann appears to have recorded a note on January 31 which says that he had had a discussion with Ailawadi on January 25 about the objections raised by the Defence authorities and that Ailawadi promised to send him an early reply. Finally on January 28, 1972 Ailawadi wrote to Mann dealing with the objections. With regard to the airfield, Ailawadi stated that for all intents and purposes the airfield seemed to have been "abandoned" and "the question of the safety of the runway or airfield being in jeopardy" did not therefore arise. In a file in the Deputy Commissioner's office the airfield was in fact described as abandoned (File No. AD-I-Vol. V) with regard to the objection that a part of the acquired land fell within 1,000 yards of the crest of the outer parapet of the defence work, Ailawadi found that this was so but he added that private structures had been allowed to be raised within the restricted zone and even the Air Force Officers mess and certain other offices of the Defence Ministry were located in this area. Ailawadi also pointed out that a portion of the National Highway No. 8, known as Delhi-Gurgaon road, fell within the prohibited area. Ailawadi suggested that the Defence Ministry might be asked to "shift their fencing line" by taking a corresponding area at the back of the ammunition depot. The findings on which the suggestion was made do not seem to be correct. Shri A. N. Thyagarajan, Deputy Secretary in the Ministry of Defence, has explained that "abandonment of an airfield does not convey the same meaning to Defence as it does to a layman" and that "there are dozens of airfields in the country under the Air Force out of which only a fraction would be in use at any time", and the others are "activated as and when" the situation demands. He adds that the

"general policy is that where there is an ammunition depot there is an airfield attached and they form a composite whole, because without an airfield the question of airlifting the ammunition could not take place". According to Thyagarajan the civil authorities cannot possibly decide whether a particular airfield has been 'abandoned' in the sense an ordinary man understands the word. Ailawadi did not consult the Defence authorities before concluding that the airfield had been abandoned in the ordinary sense. If some private structures had been raised within the prohibited zone, that would certainly not be a justification for others being allowed to be constructed in that area and the series of letters written by Squadron Leader Mohinder Singh and others insisting on the clearance zone being kept free prove that these structures were raised in spite of objection. As for the officers' mess and other offices of the Defence Ministry, Squadron Leader Mohinder Singh makes it clear in his deposition that these service buildings are on the site in accordance with the regulations for service buildings, compiled in Air Publication 2608A, "on the ground of operational efficiency". It is not disputed that the Delhi-Gurgaon road had been in existence before the ammunition depot was set up in that area.

About a month after he received Ailawadi's letter, Mann recorded a note that a letter should be immediately written to the Government of India on the basis of the communication from Ailawadi. Three weeks thereafter Mann submitted a draft of the proposed letter to Batra. Batra marked the file to the Chief Minister who approved the draft on March 28, 1972. Another two weeks were gone before the letter was issued, signed by Mann on April 12. It repeated the statements made in Ailawadi's letter that the land acquired was within 1,000 yards of the outer parapet of the ammunition depot but constructions by private parties as well as the officers' mess and some other offices of the Defence Ministry and a portion of the Delhi-Gurgaon National Highway also fell within the restricted area. The Defence authorities were requested to shift the fencing line of the ammunition depot with offer of corresponding area at the back of the depot. It may be noted that the reply avoided the question of flight hazards if structures were allowed to come up within the flying funnel area. In the meantime Maruti Limited finished constructing their Research and Development Wing within the prohibited zone.

The Ministry of Defence does not appear to have replied to Mann's letter of April 12, 1972. On October 31, 1972 Mann wrote again to the Ministry of Defence to say that they had not answered his earlier letter and that if he did not receive a reply within fifteen days it would be presumed that the Defence Ministry had no objection to the acquisition of more land in the area for industrial and residential purposes. Ministry of Defence did not reply to this letter also; the reason according to A. N. Thyagarajan, Deputy Secretary, Ministry of Defence, was that it was not found possible to send a reply to reach the Government of Haryana within the time fixed. One would have thought that it was at least possible to

write to Mann asking for some more time to send a detailed reply, but this was not done. It is, however, surprising that the Government of Haryana should think it proper to fix a time limit of fifteen days for an answer to their letter when more than seven months had passed before they found it possible on April 12, 1972 to reply to the letter from the Ministry of Defence which the Chief Secretary of Haryana had received on September 7, 1971. The construction of Gates 1 and 2 complex and the five storeyed Staff Quarters had started in April/May 1972, months before Mann wrote to the Ministry of Defence on October 31, 1972. This letter again only said that if no reply was received more land would be acquired; there was no reference to the structures raised by Maruti Limited, as if Mann's letter of April 12 concluded the matter and nothing more was required to be done.

It is a fact that almost the entire Maruti complex of buildings except a small portion of the main factory building and an even smaller section of the Research and Development Wing is within 1,000 yards of the crest of the outer parapet of the ammunition depot. To be exact, from the crest of the outer parapet Gate No. 1 is 634 yards, Gate No. 2, 246 yards, and the Staff Quarters 410 yards away. The northern-most corner on the side of the main factory building facing the ammunition depot is 848 yards away, the middle point 729 yards and the southern-most face 727 yards from the crest of the outer parapet of the ammunition depot. The distance of the Research and Development Wing is 891 yards from that point.

The violation by Maruti Limited of the restrictions imposed under the Indian Works of Defence Act and enjoined by the letters addressed to the State Governments from the Ministry of Defence was discussed in Parliament a number of times in 1972 and 1973. Some Members of Parliament also wrote letters to the Minister of Defence seeking clarification on certain matters relating to this issue. Shri B. N. Tandon, Joint Secretary to the Prime Minister from October 4, 1969 to July 22, 1976, who used to assist Prime Minister Shrimati Indira Gandhi in parliamentary work in addition to his other duties, says that he kept the Prime Minister informed orally and through notes about the proceedings in Parliament and actions taken or proposed to be taken on behalf of Government in this matter. According to him, following the practice that had developed "the various Ministries used to refer questions regarding Maruti Limited and allied concerns and members of the Prime Minister's family to the Prime Minister for her approval/clearance"; even the replies of the Ministers to the letters addressed to them by Members of Parliament were finalised only after the Prime Minister had seen and approved them. Shri Tandon's "duty was to obtain the Prime Minister's orders and to convey them to the concerned for implementation". The stand taken by the Government with regard to these restrictions appears from the statements made by the Ministers in Parliament and also from their replies to the letters addressed to them on the subject by some Members of Parliament. On December 22, 1972 Shri Jyotirmoy Bosu

moving a motion in the Lok Sabha regarding the policy of Government in regard to the manufacture of cars, referred to the "Defence Department order which imposes a prohibition" in the area and said that the land on which the Maruti complex of buildings was situated fell within the prohibited area. Shri S. N. Mishra in the course of his speech said : ".....the Chief Minister of Haryana has left nothing undone to place the Prime Minister in a situation of blackmail... He has violated the Defence rules which prohibit the setting up of such factories or any construction within a particular distance..." Shri C. Subramaniam who was then Minister of Industrial Development and Science and Technology replying to the points raised gave an assurance to the House that "if any irregularities are alleged and proper documentation is given for the purpose, we are prepared to go into it even now and see and find out whether any irregularities have been committed even for Maruti Ltd.". At this stage Shri S. N. Mishra asked "what about the Defence installations? How are they going to take them away from there now?". To this Shri V. C. Shukla, Minister of State (Defence Production) replied "nothing has to be taken away. There is no objection from them"—"them" in the context apparently referred to 54 ASP at Gurgaon. Shri C. Subramaniam supporting Shri Shukla repeated "there is no such infringement as far as their works are concerned". This assurance by the two Ministers was made the subject matter of a privilege issued by Shri S. N. Mishra on February 23, 1973. Referring to the letter of March 11, 1971 addressed by Squadron Leader Mohinder Singh to Headquarters Maintenance Command, copy of which was endorsed to the Chief Secretary to the Government of Haryana, which said that the proposed factory would be a security risk to the ammunition depot and the airfield at Gurgaon, Shri Mishra contended that the Ministers had made deliberately wrong statements. It appears that Shri Shukla sent a draft of the statement he proposed to make in the Lok Sabha in this connection to the Prime Minister's Secretariat with a note, the last paragraph of which reads as follows : "RUM (Raksha Utpadan Mantri) desires to discuss the note at enclosure 23A with Pradhan Mantri tomorrow morning". The statement was seen by the Prime Minister next day, February 26, 1973. [Enclosure No. 27-A in Prime Minister's Secretariat file No. 17 (1521) 74-PMS]. In his statement, seen and approved by the Prime Minister, Shri Shukla made the following points in Lok Sabha on March 1, 1973 :

- (i) The army ammunition depot was closed down in 1966 and its premises were taken over by the Air Force. In 1968 it was decided to derequisition 415 acres of land in Gurgaon district which was in the Defence Ministry's possession. In view of these changes, a fresh declaration under the Indian Works of Defence Act, 1903 was required to be made in order to continue the restrictions.
- (ii) A fresh declaration S.R.O.6 was published in the Gazette of India on January 11, 1969.

However, the legal requirement as to giving public notice of the substance of the notification was not complied with due to inadvertence ; "no legally enforceable restrictions therefore existed in this area after the Army Ammunition Depot had been closed down in 1966".

- (iii) The circular letter of the Ministry of Defence suggesting certain restrictions on construction of buildings and other structures in the vicinity of Air Force installations provided for mutual consultations between the Central and the State Governments whenever necessary to settle such matters. The letter had not been followed up by a legislation.

On March 7, 1973 the Minister of Law, Justice and Company Affairs, Shri H. R. Gokhale elaborated on what Shri V. C. Shukla had stated. According to him the notification under section 3 of the Indian Works of Defence Act made in 1962 was a valid notification but the ammunition depot for which the notification was issued was shifted from that site, and the area which was given to the Air force installations was not exactly the same as occupied by the ammunition depot. It is to be noted that the notification spoke of 'ammunition depot' and not 'army ammunition depot'. He said that "some part of the area which had been with the ammunition depot had been derequisitioned and had been taken out of the installation which was to be the Air Force installation. Naturally the result was that the topography of the installation was changed... the crest of the outer parapet itself did not remain the same because certain part of the area had been taken out by the derequisition and was not given to the Air Force installations". In the opinion of the Law Minister, whether the notification of 1969 was valid or invalid, operative or inoperative, by necessary implication the earlier notification stood repealed. The other point made by Shri Gokhale was that the 1969 notification was inoperative because public notice of the declaration was not given as required under the law. The privilege motion which was moved by Shri S. N. Mishra on May 16, 1973 deploring the conduct of the three Ministers, Shri C. Subramaniam, Shri V. C. Shukla and Shri H. R. Gokhale for misleading the House in their statements made in the House, was ultimately negatived.

In the meantime on March 5 and 6 Shri Jyotirmoy Bosu wrote two letters to the Defence Minister. In the letter of March 5, Shri Bosu wanted to know what precise action had been taken on the communication dated March 11, 1971 addressed by the Commanding Officer, 54 ASP to the Headquarters Maintenance Command. In the letter of March 6, Shri Bosu asked for information on the following points :

- (i) Whether the notification published on 15 December 1962 (S.R.O. No. 315) was ever cancelled, withdrawn or modified.
- (ii) Whether there was any provision in the Indian Works of Defence Act for the automatic expiry or withdrawal of the notification or of its ceasing to have effect.

- (iii) whether the army ammunition depot when taken over by the Air Force was converted into Air Force explosive/ammunition depot, and
- (iv) whether the local people had not pointed out the Defence Ministry's restrictions in regard to the land acquired and what action was taken on this.

The Defence Minister replied to these letters on March 29, 1973. His draft reply was shown twice to Prime Minister Shrimati Indira Gandhi before it was sent. After she had seen the first draft on March 17 it was slightly modified by the Defence Minister, she again saw and approved the revised draft on March 28. In his reply the Defence Minister referred to Shri V. C. Shukla's statement made in Lok Sabha on March 1, 1973 on the query based on the letter of the Officer Commanding, 54 ASP dated March 11, 1971, adding that "a decision will be taken in consultation with the Government of Haryana" and that the "Defence requirement" will be fully kept in view. As regards the information asked for about S.R.O. No. 315, the Defence Minister referred to the Law Minister's speech in Lok Sabha on March 7. As regards the army ammunition depot, he said that the Air Force took over the premises occupied by the army ammunition depot after it was shifted from the place, but a part of the area was demarcated for derequisitioning and was subsequently derequisitioned. He did not refer to the fourth point.

On April 4, 1973 Shri Mahavir Tyagi, M.P. wrote to the Defence Minister wanting to know, among other things,

- (i) the area that was derequisitioned after the army ammunition depot had been taken over by the Air Force ;
- (ii) assuming the notification of January 11, 1969 (S.R.O. No. 6) was defective as stated by the Law Minister, "whether Government have already removed the deficiencies in the notification; when were the deficiencies discovered and when did the Government begin taking steps to remove them".

The Defence Minister replied to this letter on April 25, 1973 saying that

- (i) the derequisitioned area measured 167.20 acres, and
- (ii) the deficiencies in the notification of 1969 came to light only in December, 1972 when no corrective action was possible in view of the time limit prescribed in section 9 of the Indian Works of Defence Act, 1903.

Section 9, however, does not appear to have any relevance in the present context; that section provides that public notice inviting claims to compensation should be given within the period of time mentioned in the section.

According to Shri B. N. Tandon, Joint Secretary to the Prime Minister at the time, the Defence Minister's reply to Shri Mahavir Tyagi's letter was also finalised after the Prime Minister had seen and approved it.

From the statements of Shri V. C. Shukla and Shri H. R. Gokhale made on the floor of Lok Sabha, it appears that the Government treated the 1962 notification (S.R.O. No. 315) as impliedly repealed because a part of the land "which had been with the ammunition depot" was derequisitioned as a result of which the topography of the installation was changed and the crest of the outer parapet did not remain the same. The statements made by Shri V. C. Shukla and Shri H. R. Gokhale suggest that it was the derequisitioning of a part of the land that made a new declaration necessary in 1969 so as to continue the restrictions, but that is not correct. The land was in fact derequisitioned in February 1969 and the 1969 declaration, S.R.O. 6, was published in January when there was no change in the topography of the ammunition depot, and, therefore, no occasion for any change in the crest of the outer parapet. S.R.O. 6 of 1969 which replaced S.R.O. 315 of 1962 extended over the same area. It was considered inoperative as public notice of it had not been given. One would have thought that if S.R.O. 6 was ineffective, then the earlier notification of 1962 which it sought to replace would continue to operative but Shri H. R. Gokhale told the Lok Sabha that the earlier notification stood repealed by necessary implication. What repealed the earlier notification if the subsequent notification was inoperative? If it was the derequisitioning of land which, according to Shri Gokhale, led to this position, the Collector of Gurgaon who made the derequisition order had certainly no jurisdiction to repeal an order of the Central Government, and therefore there was nothing he could do from which the declaration could be inferred to have been repealed. It is not clear how the principle of repeal by necessary implication which is one of the rules of interpretation of statutes could be pressed into service in these circumstances to get rid of a declaration made by the Central Government under section 3 of the Indian Works of Defence Act, 1903. A letter dated January 6, 1969 from Shri S. N. Rao, Joint Secretary in the Ministry of Defence, written in reply to a query from Shri N. R. Suvarna, Director of Investigation in this Commission of Inquiry, shows that some "minor work relating to re-alignment of perimeter fencing was necessitated by derequisitioning of about 65 acres of land" in February 1969. This is a fact which would have justified a demand for revoking or amending the notification S.R.O. 315 of 1962, but it was never revoked, withdrawn or amended. It further appears from the site plan sent along with Shri Rao's letter that re-alignment of the fencing was done only in one corner of the land, on all other sides including the side where the Maruti complex of buildings are located, there was no change in the perimeter fencing. It is therefore difficult to see how a small adjustment of the fencing line in one corner so changed the topography of the installation that the restrictions imposed by S.R.O. 315 of 1962 must be considered to be non-existent. Shri Shukla in the course of his speech mentioned the fact that the circular letters issued by the

Ministry of Defence seeking to control the construction of buildings in the vicinity of Air Force installations were not followed by legislation. The statement seems to convey a suggestion that violation of the restrictions sought to be imposed by these letters could not therefore be prevented. But Shri A. N. Thyagarajan, Deputy Secretary, Ministry of Defence, has pointed out that "all the State Governments" have "always" complied with the request made in the circular letters and stopped constructions constituting "flight safety hazards" on the strength of these letters. Apart from the alleged violation of the restrictions prescribed under the Indian Works of Defence Act, 1903 it is found that a major part of the Maruti buildings comes within the flying funnel of 54 ASP airfield. According to the circular letter dated July 4, 1966 issued by the Ministry of Defence "tall structures" built "within the flying funnel of an adjoining airfield would constitute a flying hazard and endanger the safety of the State as well as the Central Government's property".

Following the Lok Sabha debate on the privilege motion tabled by Shri S. N. Mishra, a Board of officers was convened by the Air Headquarters to assess the situation and suggest remedial measures. This appears from a note recorded on July 9, 1973 by Shri S. P. Rai, Deputy Secretary (AI) in File Dy. No. 4341/JS(A)/73. The operative part of the note reads as follows :

"It would be advisable to take stock of the situation and decide upon the remedial measures. Gurgaon is an abandoned airfield but is being retained by the Air Force. Since the factory falls on one side of the funnel, the use of the airfield. It activated in future will be limited to one direction only. A meeting may be convened where the representatives from the Government of Haryana and the Headquarters could be invited. P.M.'s Secretariat will have to be closely associated. Shri B. N. Tandon, Joint Secretary to the Prime Minister, may be requested to kindly see the proceedings of the Board before a meeting is convened".

This file which was received in Prime Minister's Secretariat in July 1973 remained with the Prime Minister for about four months during which period she does not appear to have taken any step in regard to the matter.

On August 16, 1973 Shri S. N. Mishra raised the matter again in Lok Sabha by Unstarred Question No. 3301 which is reproduced below :—

- "(a) Whether Government have completed the inquiry into the factors responsible for what appeared to them as defects in the notification of 1969 under the Works of the Defence Act, 1903 relating to the security of the Defence installations at Gurgaon; and
- (b) The result of the inquiry and the remedial steps taken by the Government?"

To this the reply of the Minister of Defence was :

"(a) & (b) : The notification published under the Indian Works of Defence Act, 1903 in the Gazette of India, dated 11th January 1969 in regard to the Air Force Unit at No. 54 ASP remained inoperative due to a copy of the said notification not having been sent to the State Government for action under section 3(2) of the Act. This was due to inadvertence. The Under Secretary responsible for this omission has died and the Section Officer and the Assistant who dealt with this case have since retired. No disciplinary action is, therefore, possible at this stage. Instructions have, however, been issued to all concerned to guard against such omissions in future".

It will be seen that though the answer purported to reply to both queries (a) and (b), in fact, the query as to the remedial steps taken by the Government was not answered. As in the other cases, this reply also must have been, vetted by the Prime Minister.

It was only in the beginning of November 1973, after Shri K. B. Lal, then Secretary, Ministry of Defence, requested Shri Tandon to have the matter expedited that Shri Tandon obtained instructions from Prime Minister Indira Gandhi and asked Shri Rai to come over and discuss the matter with him on November 5, 1973. On November 12, 1973 Shri S. P. Rai recorded the substance of the discussion on the file. It appears from this note that Shri Rai thought that the only course open was to "work out new security plan for 54 ASP taking into view the developments that have since taken place" and he suggested taking early steps in this regard. To this Shri Tandon's reaction has been recorded as follows :

"Shri Tandon was, however, of the view that any course of action taken by us at this stage was likely to be utilised by the opposition to achieve their political objective that some favour/accommodation was being shown to M/s. Maruti Ltd. and in the process to others also. He felt that the time was not yet ripe to take any action on the above lines. He felt that the storm over this issue should be allowed to pass off before we finally take a view in the matter. He further felt that the matter should be kept pending for over six months or so".

Shri Tandon has said in his deposition and reiterated in his affidavit affirmed on November 1, 1978 that in conveying to Shri S. P. Rai the suggestion to let the storm over the issue blow over and to keep the matter pending for over six months or so he was acting in accordance with the instructions given by Prime Minister Indira Gandhi. Shri Tandon has further said in his affidavit that this would have been conclusively proved if the 'internal note' with which the Defence Ministry's file was submitted to the Prime Minister was available. Shri Tandon has explained in his deposition that he used to submit to the Prime Minister files coming for her orders or instructions from other Ministries or

Departments with 'internal notes' in accordance with the practice in the Prime Minister's Secretariat. A number of such notes still exist in the files now in custody of this Commission, only the file in question here does not contain any of these notes. In fact, on October 1, 1978 Shri Tandon wrote to Shri H. S. Shah, Joint Secretary to the Prime Minister, for inspection of these internal notes. Shri Shah's reply dated October 15/16, 1978 says "all papers available in this office on Maruti affairs have already been sent to the Commission and we did not have any internal notes or other papers left with us on this subject". The reply adds that from one of the files sent to the Commission, the notes portion was noticed missing. Shri Tandon's affidavit further contains the following statement :

"It is my personal knowledge that sometime in late 1975 or early 1976 the Prime Minister had called for the internal notes regarding Maruti and these were sent to her house. These were not returned as long as I was in the P.M. Secretariat".

On these facts, there is no reason why Shri Tandon's statements should not be accepted as true that what he had conveyed to Shri S. P. Rai on November 5, 1973 was under instructions from the ex-Prime Minister Shrimati Indira Gandhi and that she had called for the internal notes concerning Maruti Limited and these were sent to her house. Shri Tandon left Prime Minister's Secretariat on July 22, 1976. Shri H. S. Shah's reply to Tandon's letter indicates that Shrimati Gandhi did not return these notes even after Shri Tandon had left.

It will be necessary to come back to the Agreement between Maruti Limited and the Government of Haryana to see if the Company complied with the terms and conditions on which the allotment of land was made to it. First of the 18 annual instalments in which the price of the land was to be paid was due two years after the date of the delivery of possession. Possession was delivered on August 10, 1971. The agreement, it may be recalled, provided that each instalment was to be paid within 30 days from the date on which it became due and if any instalment was not paid in time, interest at the rate of 12 per cent per annum was to be charged on the amount due. The first instalment fell due on August 9, 1973 and was payable by September 8, 1973. After a lot of correspondence on the exact amount payable, Maruti Limited remitted by a demand draft the first instalment with interest at the agreed rate of 7 per cent per annum amounting to Rs. 6,21,790. A further sum of Rs. 7,350.40 being the penal interest at the rate of 12 per cent per annum for late payment which should also have been paid was however not tendered. After this Maruti Limited did not pay any other instalment though they kept on corresponding with the office of the Urban Estates, Faridabad, disputing the sums claimed by way of instalments with interest. Failure to pay within one year from the date when the instalment was due entitled the Government to resume the site along with buildings constructed and machinery installed thereon in terms of paragraphs 3 and 12 of the Agreement. However, beyond issuing

reminders from time to time no action was taken by the Government of Haryana. It was only after the last general elections were over in March, 1977, in which Shrimati Indira Gandhi was defeated that a demand was made on the company on April 8, 1977 for a total sum of Rs. 14,46,976.35 due upto May 10, 1977 adding that on failure to pay action under the Agreement would be taken. Still no payment was made. On March 6, 1978 the Punjab and Haryana High Court made an order for winding up of the company under section 433(f) of the Indian Companies Act, 1956 on the application of Delhi Automobile Private Limited. Shri G. Sagar Suri was the Managing Director of the applicant company.

Under paragraph 7 of the Agreement the company could not transfer any interest in the land by sale, mortgage, gift or in any other way without prior written permission of the Government unless the site had been fully utilised for industrial purpose and all payments under the Agreement had been made. However, at the 19th meeting of the Board of Directors held on March 1, 1974 it was proposed to rent out a part of the Maruti factory premises to Maruti Heavy Vehicles (P) Limited. The relevant portion of the minutes is reproduced :—

"Shri Sanjay Gandhi apprised the Board that Maruti Heavy Vehicles (P) Ltd. a new company incorporated for the manufacture of heavy vehicles has requested for a portion of our premises (details marked in the copy signed by the Chairman for the purpose of identification) for its manufacturing activities. The matter was discussed and it was decided that the marked portion be given to Maruti Heavy Vehicles (P) Ltd. and a rent @ P. 40 per sq. ft. be charged for the area actually used.

It was therefore, "resolved that the marked premises be leased out to M/s. Maruti Heavy Vehicles (P) Ltd. on the terms and conditions contained in the indenture... and that the lease deed be entered into by the company and Maruti Heavy Vehicles (P) Ltd." "

A note appended to the resolution said that Shri Sanjay Gandhi being an interested Director neither participated nor voted in the meeting but it appears that he presided over the meeting. Sanjay Gandhi was one of the Directors of Maruti Heavy Vehicles (P) Limited.

Again, on May 13, 1975 Maruti Limited leased out 125 acres out of about 297 acres of land allotted to it to one K. L. Goel permitting him to grow vegetables and allied agricultural products on the land. The document of lease was signed by Shri Sanjay Gandhi, Managing Director, on behalf of the Company. The lease was for three years renewable for a further period mutually agreed upon; the consideration was Rs. 450 per acre per year payable in half yearly instalments. In terms of clause 2 of the lease the lessee was to deposit Rs. 10,000 with the company out of which Rs. 5,000 was to be paid on the day the lease was executed and the balance Rs. 5,000 within thirty

days from that date. The deposits were to be adjusted at the time of the final six monthly payments at the end of the term. Shri Goel deposited Rs. 5,000 on May 29, 1975 as evidenced by the receipt granted by the Accounts Officer of the company Shri A. Gulati; the balance of Rs. 5,000 was deposited on July 9, 1975 against receipt issued by Shri Shashidharan, another Accounts Officer of the company. Shri Goel told this Commission that he cultivated this 125 acres of land till May 1976; in June 1976 Maruti Limited took back 36 acres out of this area which the company leased out to Shirke & Co. (P) Limited. The Board of Directors of Maruti Limited at their 29th meeting held on August 26, 1976 had passed a resolution proposing to lease out 36 acres of land "within the company's premises" to Shirke & Co. (P) Limited of Poona initially for a period of three years. The resolution further authorised Shri Sanjay Gandhi, Managing Director of the Company, to finalise the agreement, a draft of which was placed on the table, by making any changes, alterations and modifications that he might think proper.

The site had not been fully utilised for industrial purpose before these transfers were made and except the first instalment no other instalment was paid. The transfers were thus made in clear violation of paragraph 7 of the Agreement which entitled the Government of Haryana to resume the site. No step was however taken. As already stated, an order for winding up of the company was made in March, 1978.

*Summary of Special Features :—*The facts revealed in the foregoing pages of this chapter speak for themselves. They bring to light two prominent features; one of them is the unusual interest shown by Shri Bansi Lal, then Chief Minister of Haryana, in Sanjay Gandhi car project; the other is the stand taken by the Central Government and the conduct of Prime Minister Shrimati Indira Gandhi when Government's attention was drawn by some members of Parliament to the constructions made by Maruti Limited within the clearance zone around the ammunition depot. Shri Bansi Lal directed senior officers of the Government like R. S. Mann, Director of Town & Country Planning and Urban Estates, L. C. Gupta, Director of Industries, and V. S. Ailawadi, Deputy Commissioner, Gurgaon to show Sanjay Gandhi sites around Sonapat and Gurgaon for his car factory. These officers were not sent to select land which could be acquired for industrial purposes of the State, they were asked to take Sanjay Gandhi around waiting for him to choose a site suitable for his purpose which the Government was to acquire and make over to him. Both Mann and Gupta have said that it was unusual for senior officers to be asked to accompany an industrialist to help him select a site for his purpose. The draft development plan for the controlled area in Gurgaon was changed from time to time till Shri Sanjay Gandhi finally made his selection. The Haryana Government was willing to have an industrial zone wherever Sanjay Gandhi decided to have his factory. This is clear from the fact that the Director of Industries reduced the area originally considered necessary for industrial purposes, which was 600 acres, to 400 acres when the defence authorities declined to release the land in their occupation,

and also from Mann's attempt to find out from Ailawadi in February 1971 whether Sanjay Gandhi had chosen a new site. Mann himself admits that one factor that "weighed heavily" in preparing the draft development plans was Sanjay Gandhi's choice of site. The site ultimately acquired was fertile agricultural land and those who were dispossessed in consequence were mostly uneducated small land owners depending for their livelihood entirely on agriculture. This was not considered by the State Government a sufficient reason to look for an alternative site.

The Chief Minister also made Shri Mann and Shri R. K. Gupta, Assistant Legal Remembrancer, carry the draft agreement between Maruti Limited and the Government of Haryana to Sanjay Gandhi at New Delhi for his approval. The stamp paper on which Sanjay Gandhi had the draft typed after he had approved it did not bear the stamp vendor's endorsement. Even the Assistant Legal Remembrancer who was expected to detect this deficiency says that he did not notice it, which is surprising. This shows that the officers were concerned only with getting Shri Sanjay Gandhi's signature on the agreement for which they were sent to Delhi, and once he had signed the document they did not apply their mind to any other aspect. It is not impossible that the Assistant Legal Remembrancer did notice the deficiency, but did not dare point it out to Sanjay Gandhi. Having got Sanjay Gandhi's signature on the document on August 9, 1971, Mann and R. K. Gupta who were joined by M. Shankar, Administrator, Urban Estates, at Delhi gave formal possession of the land to Sanjay Gandhi the next day. There is no precedent for senior I.A.S. officers in Haryana being employed for such purposes. Shri Bansi Lal also issued peremptory orders from time to time asking the officers to do something or other in connection with Sanjay Gandhi's car project. He asked the Director of Industries on November 16, 1970 to inform the Central Government on that very day that Haryana Government had no objection to Sanjay Gandhi's proposal for change of the location of his factory from Faridabad to Gurgaon. On April 21, 1971 Shri Bansi Lal told the Director of Industries to write to Sanjay Gandhi on that very day assuring him that 300 acres of land would be allotted to him and accepting his request for payment of the price in instalments. The urgency was due to the fact that Sanjay Gandhi had expressed his annoyance at the delay in allotment of land to him. The Director of Industries was also told not to ask Sanjay Gandhi to justify his requirement of 300 acres on which the Director of Industries was insisting. On June 24, 1971 Shri Bansi Lal telephoned Mann from Delhi directing him to ensure that the acquisition proceedings were completed and possession of the land delivered to Sanjay Gandhi by July 10, 1971 at the latest and to see that a letter was written to Sanjay Gandhi on that very day that he would be given possession of 300 acres of land by July 10. In obedience to the Chief Minister's orders, the letter was despatched to Shri Sanjay Gandhi through a special messenger. Here again what moved the Chief Minister was the fact that Sanjay Gandhi had complained to him about the delay in the allotment of land. In the meeting with Sanjay Gandhi held on July 3, 1971 where the terms and conditions for allotment of the land were settled, it was Shri Bansi Lal who took

all the decisions giving no chance to the officers present to express their views. The concessions given to Sanjay Gandhi were extra-ordinary. According to both Mann and L. C. Gupta no other party enjoyed such concessions either before or after. At this meeting Shri Bansilal went back on the earlier decision, based on the precedent of Haryana Steel and Alloys Limited, to realise the entire price of the land before possession was given, and agreed to deliver possession on payment of 10 per cent of the price. The decision taken in the meeting was also against the Rules of Business of Haryana Government under which it was the Cabinet and not the Chief Minister alone that was competent to allow transfer of Government land valued over Rs. 75,000; the Ministers whose departments were vitally concerned in the transaction, the Finance Minister, the Industries Minister and the Minister for Public Works were not called to attend the meeting.

When Bansilal's attention was drawn to the constructions made by Maruti Limited at gates 1 and 2 in disregard of the provisions of the Punjab Scheduled Roads and Controlled Areas Restrictions of Unregulated Development Act, 1963, he did not take any step on the alleged assurance of Sanjay Gandhi that the illegal constructions would be removed. He took no step even when Sanjay Gandhi gave no indication of keeping his promise. The experience of Building Inspector Ram Lal and Assistant Estate Officer J. N. Bhargava who tried to stop the illegal constructions has been described. The constructions at gates 1 and 2 were started without a sanctioned plan and completed in spite of the demolition order made by Shri Bhargava. Bhargava however did not have the courage to carry out his own order for demolition. When a request for compounding the offence was made to Bhargava on behalf of Maruti Limited he thought it safe to seek the guidance of his superior officer Shri Pritam Singh, Administrator, Urban Estates. Pritam Singh found that the offence could not be compounded under the Act and he reported the matter to his superior officer Shri R. S. Mann because he felt that this was a sensitive issue and apprehended that Sanjay Gandhi might "complain to higher authorities" against him. Mann drew the Chief Minister's attention to this matter who was satisfied with Shri Gandhi's assurance. There was no attempt to stop the construction of the five storeyed Staff Quarters which was completed unopposed. Shri Bansilal must have been aware that the Air Force officers at Gurgaon as well as the Ministry of Defence had been objecting to the erection of structures by Maruti Limited inside the clearance zone around the ammunition depot and within the flying funnel of the adjoining airfield, but he allowed the constructions to be completed.

The extra-ordinary zeal shown by Shri Bansilal in Sanjay Gandhi's car project had its effect on the officers. Even Shri R. S. Mann, Director of Town and Country Planning and Urban Estates, and Shri O. P. Yadav, Land Acquisition Collector, who in the beginning refused to be influenced by the fact that it was Shri Sanjay Gandhi, son of Prime Minister Indira Gandhi, for whom the land was being acquired, ultimately had to yield to pressure from the Chief Minister. Mann could not disobey his Chief Minister who asked

him to show Sanjay Gandhi sites for his car factory, but he declined to take any step for the acquisition of land unless Sanjay Gandhi made a formal application. Mann told the Commission that he now thought that no such application was really necessary, but the point is that at the relevant time he considered a formal application essential and declined to move in the matter until it was made. However, after Bansilal fixed July 10, 1971 as the target date for completing the land acquisition proceedings, Mann avoided doing anything which might delay the proceedings. The Land Acquisition Collector's suggestion regarding the availability of an alternative site he rejected out of hand though Land Acquisition Collector Yadav had seen the site for himself before recording his opinion. He also overlooked the recommendation of the Financial Commissioner (Revenue) that the question of funds for paying the acquisition cost should be taken up with the Finance Department; the Minister concerned had also approved the recommendation. Mann told the Commission that it was not really necessary to approach the Finance Department, but, necessary or not, this was the decision taken earlier with the approval of the Minister and any departure from it would be an irregularity. The only reason one can think of why Mann paid out the money without reference to the Finance Department is that he was able thereby to avoid delay, and this was important in view of the target date fixed for completing the acquisition proceedings. But Mann took about a month after he received Ailawadi's report dealing with the objections raised by the Defence authorities to the Maruti complex of buildings being raised at the present site, to decide to write a letter to the Government of India on the basis of Ailawadi's report. He took another three weeks to prepare a draft of the letter and then further two weeks after the draft was approved by the Chief Minister to issue the letter. In the letter he avoided the question of flight hazard raised by the Air Force authorities. Chief Minister Bansilal had made it quite plain that he was determined to let Sanjay Gandhi set up his car factory at Gurgaon as quickly as possible and that he would not tolerate any impediment put in the way. Clearly Mann did not wish to be an obstructionist. He was not keen on dispatch if that would hinder the progress of the Maruti constructions. There is no evidence however that Mann derived any personal advantage out of the indirect assistance Maruti Limited got from him.

O. P. Yadav, Land Acquisition Collector, hearing objections of interested persons under section 5A of the Land Acquisition Act agreed with the objectors that the Government might acquire the alternative site suggested by the objectors instead of the fertile land notified for acquisition. Later, when informed of the target date set by the Chief Minister for completing the acquisition proceedings, Yadav rushed through the proceedings and made his awards in an unbelievably short time which leaves an impression that the awards had been completed beforehand and kept ready and the exercises prescribed by the Act were taken only as a formality. Yadav himself says that he "had no option but to complete the proceedings" in a hurry because of the time limit fixed. The evidence indicates that what Yadav did was under pressure and not for his personal benefit.

Shri V. S. Ailawadi, Deputy Commissioner, Gurgaon, knew what was expected of him. He showed his anxiety to be of help by suggesting more than once that land in the occupation of Defence authorities should be "got released" for Sanjay Gandhi's car factory. To the problem created by Maruti Limited raising structures within the clearance zone around the ammunition depot, his solution was that the Defence authorities should be asked to shift their fencing line. He also described the airfield adjoining the ammunition depot as abandoned without any reference to the Ministry of Defence, the only authority competent to say if it was really so. Shri Ailawadi had been receiving a series of communications from the Air Force officials since July 1971 expressing their anxiety over the construction of a car factory so close to the ammunition depot and the airfield. In one of the letters his attention was drawn to the fact that Maruti Limited was constructing a wall within 200 yards of the outer parapet of the ammunition depot, but he chose not to take any step. That Ailawadi was well aware of the restriction would appear from an order he himself made on December 17, 1971 in which while permitting a brick kiln to be set up in that area, he added that it must "not be located within 1000 yards of the outer limit of the parapet of the ammunition depot". After Shri M. Shankar, Administrator, Urban Estates, received from Shri Mann a copy of Air Vice Marshal (Retired) Harjinder Singh's letter written to Shri M. L. Batra pointing out the "hazards" for the "defence operations" created by the Maruti constructions, Shankar enquired from Ailawadi if the points made in the letter were valid. Then followed a long spell of inaction during which Maruti Limited proceeded with the constructions unhindered and finally Ailawadi sent his report to Mann on January 28, 1972. The validity of the findings in the report has been discussed earlier. In Ailawadi's case also, there is no material to suggest that he gained personally from what he did.

The other remarkable feature is the stand of the Central Government with regard to the constructions made by Maruti Limited in the prohibited zone, when Government's attention was drawn to it by some Members of Parliament, and Prime Minister Shrimati Indira Gandhi's response to the disclosure. The stand of the Government was that the declaration S.R.O. 6 of 1969 was inoperative and the earlier declaration S.R.O. 315 of 1962 should be considered to have been repealed by implication. The relevance of the rule of implied repeal sometimes applied in interpreting statutes is extremely doubtful to this context. This was a matter concerning the country's security, yet the Minister of State for Defence Production and the Law Minister seemed more anxious to prove the invalidity of the restrictions imposed. Assuming the position was as the two Ministers made it out to be, the Defence Minister's letter of April 25, 1973 to Shri Mahavir Tyagi discloses that it was only in December 1972 that the Government was aware that the declaration S.R.O. 6 of 1969 was inoperative. The question therefore remains, why no step was taken to prevent the illegal constructions before December 1972 when there was no doubt as to the validity or the effectiveness of S.R.O. 6 of 1969. And what again did

the Government do after December 1972 when the invalidity of the 1969 declaration was known? In July 1973 Shri S. P. Rai, Deputy Secretary in the Ministry of Defence, suggested a meeting "to take stock of the position" and decide upon "the remedial measures". Prime Minister Shrimati Indira Gandhi kept the relevant file with her for about four months taking no action on Shri Rai's suggestion. At the insistence of Shri K. B. Lal, then Secretary, Ministry of Defence, Shri B. N. Tandon, Joint Secretary in the Prime Minister's Secretariat, had a meeting with Shri S. P. Rai. Before the meeting Shrimati Indira Gandhi instructed Tandon to see that the matter was kept pending "for over six months or so". It has been mentioned earlier that all answers by Ministers to questions touching Maruti Limited had to be approved by Shrimati Indira Gandhi. In August 1973 Shri S. N. Mishra by an Unstarred Question wanted to know whether Government had completed the inquiry into the factors responsible for the alleged defects in the notification of 1969, the result of the inquiry, if completed, and the remedial steps taken. The Defence Minister's reply which must have been vetted by the Prime Minister following the usual practice, did not answer the query as to the remedial steps taken by the Government. Ultimately, no remedial measures appear to have been taken.

All that Shri Bansilal did, the rules of law and the norms of propriety that he disregarded or caused to be ignored cannot be explained as the natural anxiety of a Chief Minister trying to invite to his State a new and important industry as Counsel for Bansilal tried to impress upon the Commission. It was said that this was Shri Bansilal's style of functioning, when he wanted to get a thing done for the welfare of the State, he refused to be fettered by red tape. But when Shri Sanjay Gandhi's car project proved a failure and Maruti Limited failed to comply with the terms and conditions of the agreement with the Government of Haryana, the Chief Minister took no steps to recover the dues or to resume the land as provided in the agreement. His inaction was certainly not for the welfare of the State. He did not consider it necessary to act when it was pointed out that the Maruti complex of buildings was a "hazard" to the "defence operations". What then made Shri Bansilal act in the manner he did? The following list of dates and events might help in finding an answer to the question :—

21-5-1968 Shri Bansilal becomes the Chief Minister of Haryana.

According to Shri Mangal Sain, who was then a member of the Haryana Legislative Assembly, soon after Shri Bansilal's appointment as Chief Minister there was a "revolt" against him within his own party.

15-9-1968 Three of the Ministers of Shri Bansilal's Cabinet write to the President of the All India Congress Party saying that they had "serious doubts" in their minds "about his ability to work as leader".

- 3-12-1968 About seventeen members of the Haryana Legislative Assembly belonging to the Congress Party write to the Governor of Haryana withdrawing support to Shri Bansil Lal.
- 11-12-1968 Shri Sanjay Gandhi applies for an industrial licence to manufacture motor cars.
- 18-12-1968 Shri Bansil Lal writes to Shri Fakharuddin Ali Ahmed, then Union Minister of Industrial Development and Company Affairs, recommending grant of licence to Shri Sanjay Gandhi and stating that the Haryana Government had offered facilities in respect of land, water, electricity and finance for the project.
- But neither the officers of the State Government had examined Shri Sanjay Gandhi's project report nor the State Government had decided to offer him the facilities mentioned in the letter.
- 19-5-1969 A memorandum dated 16-5-1969 containing about 66 allegations against Chief Minister Bansil Lal is submitted to the President of India by Shri Bhagwat Dayal Sharma, Member of Parliament, and others praying for setting up a commission of inquiry to consider the allegations.
- 17-6-1969 Union Home Minister invites comments of Shri Bansil Lal on the memorandum.
- 6-8-1969 A second memorandum which is really supplementary to the first is presented to the President of India by Shri Bhagwat Dayal Sharma and others.
- 30-8-1969 Union Home Minister invites comments of Shri Bansil Lal on the supplementary memorandum.
- 23-12-1969 Shri Bansil Lal sends his comments, which are received in Home Ministry on 29-12-1969.
- 27-6-1970 Prime Minister Shrimati Indira Gandhi takes over direct charge of Ministry of Home Affairs and the Department of Personnel in place of Shri Y. B. Chavan.
- 31-7-1970 Shri R. N. Mirdha, Minister of State, Ministry of Home Affairs, states in Lok Sabha that the first memorandum against Shri Bansil Lal and his comments thereon were under examination.
- 8-8-1970 Prime Minister Shrimati Indira Gandhi sees the first memorandum against Bansil Lal when the Secretary (Services) puts up for her consideration a draft reply to a letter from Shri Rao Birendra Singh, a signatory to the memorandum, requesting examination of the charges against Shri Bansil Lal within a specified period.
- 2nd week of August 1970 Shri Bansil Lal directs Shri L. C. Gupta, Shri R. S. Mann and Shri S. K. Misra, all senior officers of the State Government, to go to Delhi to help Shri Sanjay Gandhi choose a site at Sonapat for his car project.
- 17-8-1970 Shri Bansil Lal telephones Shri Ailawadi, Deputy Commissioner, Gurgaon, to select a suitable site near Gurgaon for Shri Sanjay Gandhi.
- The next day Shri Sanjay Gandhi inspects three sites with Shri Ailawadi one of which includes 157 acres of land in village Dundahera in the occupation of the Defence authorities.
- 22-8-1970 Shri Sanjay Gandhi chooses a tract of land near village Dundahera on Delhi-Gurgaon road.
- 30-9-1970 Letter of Intent is issued to Shri Sanjay Gandhi for his car project.
- 3-11-1970 Union Home Secretary Shri L. P. Singh finds that there was no case for setting up a commission of inquiry against Shri Bansil Lal but recommends that further information in respect of 14 allegations in the first memorandum be called for from him.
- 13-11-1970 Shri Bansil Lal writes to the Defence Minister to release land in the occupation of the Defence authorities at Dundahera for the State's industrial purposes.
- 18-11-1970 Minister of State, Ministry of Home Affairs, Shri R. N. Mirdha agreeing with the view of the Home Secretary submits the case to the Prime Minister.
- On the same day Shri Sanjay Gandhi sends an application to the Director of Industries, Government of Haryana, asking for the allotment of 300 acres of land near Gurgaon for his motor car factory and proposing payment of the price for the land in instalments.
- 16-11-1970 Copy of Shri Sanjay Gandhi's letter addressed to the Under Secretary to the Government of India, Department of Heavy Engineering, seeking to change the location of the proposed factory from Faridabad to Gurgaon is received in the Directorate of Industries, Haryana. Shri R. C. Mehtani, Officer on Special Duty to the Chief Minister, telephones Shri L. C. Gupta, Director of Industries, telling him to convey the State Government's concurrence to the change of site on that very day.
- 18-11-1970 Shri R. K. Dhawan, a member of Prime Minister Shrimati Indira Gandhi's personal staff, sends for a map of the land being

acquired for Shri Sanjay Gandhi from the office of the Deputy Commissioner, Gurgaon.

24-11-1970 Shri B. N. Tandon, Joint Secretary in the Prime Minister's Secretariat, records on the file relating to the 1969 memorandum against Shri Bansilal that "P.M. has seen" meaning that she agreed with the suggestion of Shri L. P. Singh and Shri R. N. Mirdha.

12-1-1971 Shri R. K. Dhawan telephones Shri Ailawadi, Deputy Commissioner of Gurgaon from Delhi asking for copies of correspondence relating to land which was being acquired in Gurgaon.

18-1-1971 A note is recorded on the file of Town and Country Planning Department which discloses that the file had been summoned to Delhi by the Private Secretary to Chief Minister Bansilal "for reference".

21-4-1971 Shri S. K. Misra, Principal Secretary to Chief Minister Bansilal, conveys to Shri L. C. Gupta, Director of Industries, the Chief Minister's direction that a letter should be sent to Sanjay Gandhi on that very day saying that 300 acres of land would be allotted to him. The Chief Minister also wanted Shri Gupta not to ask from Sanjay Gandhi justification for his requirement of 300 acres on which Shri Gupta had been insisting. Shri Misra further tells Shri Gupta that Sanjay Gandhi has expressed annoyance to the Chief Minister for the delay in allotting land to him.

4-6-1971 Maruti Limited is incorporated under the Companies Act, 1956.

24-6-1971 Chief Minister Bansilal telephones Shri R. S. Mann, Director of Town and Country Planning, from Delhi telling him that Shri Sanjay Gandhi had complained to him about the delay in the allotment of land and asking him to ensure that the acquisition proceedings are completed and possession of the land delivered to Shri Sanjay Gandhi by 10-7-1971 at the latest. Mann is also told that a letter conveying this assurance to Sanjay Gandhi must issue the very same day.

25-6-1971 Shri Sanjay Gandhi writes to the Director of Industries indicating in the layout sent to him earlier by the Director of Industries, the plot selected by him for his car factory and asking for immediate possession of the land.

30-6-1971 Shri R. S. Mann writes to Shri Sanjay Gandhi at the instance of the Chief Minister that the price of the land which is being acquired for him would be approximately Rs. 12,000 per acre.

3-7-1971 A meeting is held at Chandigarh between Shri Bansilal and some officials of the Haryana Government with Shri Sanjay Gandhi where the terms and conditions for allotment of land to Shri Sanjay Gandhi are settled. The venue of the meeting is not the Chief Minister's office or residence but the Rest House where Shri Sanjay Gandhi was then staying. The terms, according to the Director of Industries and also the Director of Town and Country Planning, are unusually favourable to Maruti Limited and there is no instance of any other unit in Haryana enjoying similar concessions.

10-7-1971 The Land Acquisition Collector makes awards completing land acquisition proceedings.

Aug. 1971 File relating to the memorandum against Bansilal is again submitted to the Prime Minister with Shri Mirdha's comment that further clarification with regard to the 14 allegations is necessary.

9-8-1971 Shri R. S. Mann goes to Delhi directed by Chief Minister Bansilal to have the draft agreement for allotment of land to Sanjay Gandhi approved by him.

10-8-1971 Possession of the land is given to Shri Sanjay Gandhi.

3-9-1971 Prime Minister Shrimati Indira Gandhi agrees with the suggestion that further clarification of the 14 allegations was necessary and Chief Minister Bansilal is written to accordingly.

13-10-1971 Chief Minister Bansilal furnishes additional clarification on the first memorandum.

27-10-1971 Another memorandum against Chief Minister Bansilal, submitted to the President of India by Shri Bhagwat Dayal Sharma, M.P. is forwarded to Prime Minister Shrimati Indira Gandhi. This memorandum contains the following allegations among others: "An impression is being created in the public mind as if the Central leaders are sharing the fruits of misfeasance and malfeasance of the present Government. Shri Bansilal even brags about his personal equation with the Prime Minister whom, according to his own statement before responsible persons, he has obliged by acquiring land over 300 acres for the proposed car factory to be started by her son".

20-11-1971 The file relating to the two memoranda submitted in 1969 is put up to Prime Minister Shrimati Indira Gandhi with the finding that none of the allegations has been established.

The Prime Minister approves the findings.

27-11-1971 Comments of Chief Minister Bansi Lal are invited on the 1971 memorandum.

Prime Minister Shrimati Indira Gandhi records a note on the file relating to the 1971 memorandum: "Ask K. or Dh. to speak with C. M. too". As Shri Tandon has explained, K. refers to Shri Yash Pal Kapoor and Dh. to Shri R. K. Dhawan.

Shri Yash Pal Kapoor was not a member of the personal staff of the Prime Minister at that time while Shri R. K. Dhawan was working as Personal Assistant. Why they are asked to speak to the Chief Minister when a decision has been taken to make a formal reference to him inviting his comments on the memorandum is not stated. The note also does not indicate what Shri Kapoor or Shri Dhawan was supposed to convey to the Chief Minister in this regard. The note thus discloses a parallel personal approach to the Chief Minister by Shrimati Indira Gandhi.

24-2-1972 Another memorandum against Bansi Lal is submitted to the President of India.

28-2-1972 The above memorandum is received at the Prime Minister's secretariat.

1-3-1972 The said memorandum is sent in original to the Secretary, Department of Personnel before Prime Minister has seen it.

27-10-1972 Shri B. P. Bagchi, Secretary (Personnel) having examined the 1971 memorandum suggests a reference to a retired High Court Judge for informal opinion on some of the allegations made in the memorandum.

7-11-1972 Shri Mirdha does not agree with Shri Bagchi's suggestion and recommends that the Chief Minister should be written to asking for clarification. Shri Tandon also records a note to the effect that the matter could be examined further after receiving clarification from the Chief Minister.

8-11-1972 Prime Minister Shrimati Indira Gandhi approves Shri Tandon's suggestion.

10-11-1972 Chief Minister Shri Bansi Lal replies to the allegations.

10-11-1972 The file is submitted to the Prime Minister by the Minister of State, Department of Personnel, with his finding that the allegations have not been substantiated.

12-11-1972 Shri Tandon submits to the Prime Minister a 'top secret' hand written note suggesting that the matter be referred to a Committee of Ministers.

13-11-1972 Prime Minister Shrimati Indira Gandhi records a note that she has asked her colleagues, Shri Fakharuddin Ali Ahmed, Shri Swaran Singh, Shri H. R. Gokhale

and Shri Kumaramangalam for advice if there was a case for setting up a commission of inquiry to look into the allegations made in the 1971 memorandum.

12-12-1972 Draft of the report prepared by a Committee of four Ministers is submitted to the Prime Minister for clearance.

15-12-1972 The report is signed by the four Ministers. The report finds that the allegations have not been established.

22-12-1972 In the course of his speech in the Lok Sabha, Shri S. N. Mishra said:

But one thing is abundantly clear, it is almost conclusively proved, that the Chief Minister of Haryana has left nothing undone to place the Prime Minister in a situation of blackmail. He has robbed the peasants to put her in the wrong. He has violated the defence rules which prohibit the setting up of such factories or any construction within a particular distance to show that he can do anything in the name of the Prime Minister. He has tried to equate public interest with private interest and also tried to say to the world that industrial estate means personal estate.

Now, therefore, this is my submission, that it would be well for the Prime Minister to go into this, because he had been taking all the steps almost at the same time when the charges of corruption against him were being examined. This is no more accident that the failure of the examination of the charges of corruption against him coincides with the period in which he took all these irregular, fantastically irregular, steps.

9-7-1973 Shri S. P. Rai, Deputy Secretary in the Ministry of Defence records a note in the file Dy. No. 4341/JS(A)/73 saying that it would be advisable to take stock of the situation arising out of the constructions made by Maruti Limited in close proximity of the ammunition depot at Gurgaon and within the flying funnel of the adjoining airfield and to decide upon the remedial measures. The note suggests a meeting of the representatives of the Government of Haryana and the Air Headquarters and someone from the Prime Minister's secretariat.

Prime Minister Shrimati Indira Gandhi keeps the file with her for about four months without taking any action on it.

16-8-1973 Answering an Unstarred Question by Shri S. N. Mishra in the Lok Sabha, the Minister of Defence avoids a query made by Shri Mishra as to the remedial steps

taken by the Government in the situation brought about by the allegedly defective notification S.R.O. 6 of 1969.

The reply, following the usual procedure, must have been vetted by the Prime Minister.

5-11-1973 A meeting is held between Shri S. P. Rai and Shri Tandon after Shri K. B. Lal, Secretary, Ministry of Defence, requested Shri Tandon to have the matter expedited. In this meeting Shri Tandon on instructions from Prime Minister Shrimati Indira Gandhi tells Shri Rai that the time was not yet ripe to take any action in the matter and it should be kept pending for at least six months.

It has been mentioned that Shri Bansilal wrote to Shri Fakharuddin Ali Ahmed in December 1968 sponsoring Sanjay Gandhi's car project and enumerating the concessions offered to him before the Government of Haryana had taken any decision in the matter. This was the time when Shri Bansilal's political career was in peril following the revolt in his own party

against him. Thereafter as the memoranda against him were being submitted one after another, Shri Bansilal went on making large concessions in favour of Maruti Limited attempting, it seems, to please the Prime Minister by making available to her son land for his car factory and other facilities not enjoyed by any other industrialist in the State before or after. Instead of summoning Sanjay Gandhi to his office or residence to settle the terms of allotment of the land, he himself went to the rest house at Chandigarh where Sanjay Gandhi was then staying. What has been stated above also brings to light the calculated inaction on the part of Shrimati Indira Gandhi to enable the Maruti constructions to be completed and her anxiety to keep back the facts from Parliament in spite of her knowledge that the constructions were a hazard to the defence operations. It is remarkable that even the report of the panel of Ministers inquiring into the allegations against Bansilal had to be cleared by the Prime Minister before it was signed by them. The sequence of events suggests that Chief Minister Shri Bansilal sought to protect himself by the services he rendered, and in this situation the former Prime Minister who was aware of Bansilal's motive derived for her son the advantages he needed for his car project.



CHAPTER III

The fourth subject in the list of matters specified for inquiry relates to :—

“All matters pertaining to the propriety of the methods by which these [Maruti] concerns raised capital, working capital and other financial resources and the manner in which these financial resources were utilised”.

The Maruti concerns are Maruti Limited, Maruti Technical Services Private Limited and Maruti Heavy Vehicles Private Limited.

MARUTI LIMITED

In his application for an industrial licence to manufacture motor cars, Shri Sanjay Gandhi had stated that the new industrial undertaking he proposed to set up would be a public limited company which he named Maruti Limited. On this application he was granted a letter of intent on September 30, 1970. Maruti Limited was incorporated on June 4, 1971. On May 12, 1972 Maruti Limited applied under section 3 of the Capital Issues (Control) Act, 1947 “for consent for the issue of capital”. Under this Act no company can raise its share capital by public subscription except with the consent of the Central Government. Under the Capital Issues (Exemption) Order, 1969, made by the Central Government in exercise of the powers conferred by section 6(1) of the said Act, the Controller of Capital Issues can grant acknowledgment to a request for raising capital by private allotment of shares. If the application is for permission for a public issue, the Department of Economic Affairs, Ministry of Finance, insists on the project cost being examined and approved by underwriters and also on the approval of the scheme of finance of the company by public financial institutions. In allowing a private issue the conditions mentioned in clause 5 of the Capital Issues (Exemption) Order, 1969 have to be satisfied; the conditions prescribe *inter alia* that as a result of the proposed issue the equity of the company should not be less than one half of its debt, and the total paid-up preference share capital more than one-third of the total paid-up equity share capital. The application made by Maruti Limited on May 12, 1972, which was the first of the five applications made by the company for raising share capital, was in the prescribed form signed by Shri Sanjay Gandhi as a Director of the company. The endorsement on the application made by Shri Kewal Krishan, Section Officer in the office of the Controller of Capital Issues, shows that it was handed over personally to the Additional Controller of Capital Issues, Dr. Raj K. Nigam. Normally these applications were received in the Receipt and Issue Section of the Department of Economic Affairs, Ministry of Finance. It appears from the section officer's note dated May 17, 1972 that Dr. Nigam desired the application to be processed within three or four days. The application as made

was for a public issue and as such it was to be processed under the Capital Issues (Control) Act, 1947. The application mentioned the company's authorised capital as Rs. 5 crores and the total amount of issued capital as Rs. 6 crores, which was obviously incorrect because the issued capital could never be more than the authorised capital. The application stated that the company had already raised a sum of Rs. 24,60,700 privately. Against the column “object of issue” it was said that the company had started its activities and was in need of more funds “to meet its immediate financial needs in respect of purchase of machinery, erection of factory buildings and the working capital of the company”. It was stated further that copies of the prospectus would be submitted at a later stage and that the company proposed to get the shares listed on the stock exchange. Shri P. Radhakrishnan, then Under Secretary (Capital Issue) in the Department of Economic Affairs, who examined the application found that it was incomplete in several respects. On May 27, 1972 a letter signed by Dr. Nigam was issued seeking from the company particulars of the basis of allotment of the total equity issue and whether it would satisfy the requirements for listing of shares in the stock exchange. The company was told that the Government did not generally approve issue of capital to the public unless the scheme of finance had been approved by the public financial institutions if the project depended on financial assistance from them. It was clarified that this was not a requirement for a private issue and the company was advised that if it desired to make a private issue first it should indicate the amount to be so issued and the parties to whom the issue was to be made. Under the guidelines for listing of shares in the stock exchange which were in force till June 1972, the promoters of the company were allowed 51 per cent of the issued capital and 49 per cent had to be offered for public subscription. Under the new guidelines which came into effect from July 1972, the promoters' quota was reduced to 40 per cent, 49 per cent of the capital was to be issued to the public and a maximum of 11 per cent to the Central or State Governments or public financial institutions, if any, otherwise this 11 per cent was also to be offered for public subscription. Under the old guidelines the general practice was not to allow issue of shares to the friends and relatives of directors and it was confined to the promoters and their associates. However this rule was relaxable where the proportion of public offer satisfied the prescribed minimum listing requirements. Maruti's first application was considered according to the old listing guidelines.

On July 11, 1972 Maruti Limited replied to the letter of May 27 stating *inter alia* that it proposed to make the private issue first upto Rs. 1 crore which would be allotted to the friends of the directors. It was said that this would not conflict with the listing requirements in the stock exchange. The letter further mentioned that by a resolution passed by the Board of

Directors on June 29, 1972 "it was decided to fix the amount of the issued capital at Rs. 7 crores" divided into equity and preference shares in the proportion indicated in the letter. The letter was signed by Shri Sanjay Gandhi as Managing Director of Maruti Limited. The Minutes Book of the meeting of the Board of Directors however does not show that any such resolution as claimed was passed on June 29, 1972. Shri Raunaq Singh, a director of Maruti Limited, who deposed before the Commission, admitted after going through the Minutes Book that no such resolution was passed on that day. The letter did not mention the names of the parties to whom the private issue was to be made. It was also not clarified whether the sum of Rs. 1 crore proposed for private issue would be in equity or preference shares. But the company was not written to for further information. On July 24, 1972 Shri Sanjay Gandhi, Managing Director of Maruti Limited, and Shri S. M. Rege, Secretary of the company saw Dr. Nigam. Dr. Nigam has told the Commission that they clarified certain matters raised by him in discussions with them and they assured him that the Public Financial institutions would clear the financial scheme and the project report of the company. They also informed him that the Government of Haryana had agreed to take equity and preference capital of the company and that the total subscription of the State Government would be Rs. 25 lacs. Shri P. D. Kasbekar who was the Controller of Capital Issues till August 1972 from some time in 1970 says that Maruti's application was processed as one "for an interim private issue as forming part of a total issue which would include a public issue consistent with the listing requirements". This, according to Shri Kasbekar, was a correct decision "provided all the assurances regarding further action to be taken by the company were taken to be established facts".

After discussion with Shri Gandhi and Shri Rege Dr. Nigam relaxed the old listing guidelines and allowed the company to raise capital by private issue to the friends of the directors. On July 25, 1972 an acknowledgment letter was issued permitting the company to make a private issue upto Rs. 1 crore. To this Commission Dr. Nigam first said that he acted in good faith on the verbal assurances given by Shri Sanjay Gandhi and he "had no reason to suspect that a man of his (Sanjay Gandhi's) status could go back upon the assurances given to the Government". Later in answer to a question put to him by Counsel assisting the Commission, he admitted that he had made the decision under pressure from Sanjay Gandhi. Shri Kasbekar has said that the decision to issue the acknowledgment was taken without showing the file to him. According to Shri Kasbekar "it would have been better in his (Dr. Nigam's) own interest to get these decisions of his endorsed by his superiors. If I were in his position I would have got my views endorsed by my superiors".

On the same day the acknowledgment letter was issued, July 25, 1972, Shri Sanjay Gandhi addressed a letter to the Controller of Capital Issues in which he stated that the financial scheme of the company had been submitted to different financial institutions and that it had been accepted in principle. But on

November 28, 1972 Shri Y. B. Chavan, then Finance Minister, replying to a question in the Rajya Sabha as to whether Shri Sanjay Gandhi had asked for loans from the Public Financial institutions for his small car project, said that none of the all India long term Public Financial institutions had so far received any application for financial assistance from Maruti Limited. Thus the statement Shri Gandhi made in his letter of July 25, 1972 was untrue.

On December 8, 1972 Maruti Limited applied for the second time for permission to make further private issue to the directors and their friends to the extent permitted by the stock exchange regulations. The application was in the form of a letter signed by Shri Sanjay Gandhi, Managing Director of the company. In fact after the first application which was in the prescribed form all the applications made by Maruti Limited for a private issue were in the form of letters which were treated as extensions of the original application. This letter was followed by another written on January 2, 1973, signed by Shri Sanjay Gandhi and enclosing the terms of redemption of preference shares of the company and a revised project report. The letter of January 2 also contained a statement that the financial scheme of the company submitted to the financial institutions had been accepted by them in principle and that as soon as the final approval was received it would be sent to the Controller of Capital Issues. According to Dr. Nigam this letter showed that the assurances the company had given him on July 24, 1972 had not been fulfilled till then. Shri Radhakrishnan recorded a note that further information should be called for from the company concerning its application dated December 8, 1972. On January 24, 1973 Dr. Nigam recorded a note that the following additional material or information should be asked for :

- (i) copy of the Haryana Government's letter showing its intention to participate in the capital structure of the company (equity and preference separately) ;
- (ii) Initial project report with the comments of the financial institutions ; and
- (iii) whether any public sector consultancy company like the National Industrial Development Corporation had been consulted in the drawing up of the project report.

No letter however appears to have been issued to the company asking it to furnish the aforesaid particulars. About three weeks later, in a note dated February 15, 1973 Dr. Nigam himself said that it was not necessary to call for information from the company as to whether their financial scheme had been approved by the financial institutions. Dr. Nigam explains this note by saying that as the second request was for a private issue he thought that it was not necessary to call for such information. But this request for a private issue was only an interim measure "forming part of a total issue which would include a public issue", as Kasbekar put it. The approval of the financial scheme by the public financial institutions was therefore necessary, may be not exactly at that stage. The Finance Minister's statement in the Rajya Sabha on November 28, 1972 proved that Maruti's first claim in this regard

was untrue. It is a little surprising that no attempt was made to verify the truth of the second claim.

On April 9, 1973 Shri Sanjay Gandhi along with Shri S. M. Rege, Secretary of the company, met Shri R. M. Bhandari who had succeeded Shri Kasbekar as Controller of Capital Issues. Dr. Nigam was present at the meeting. Shri Sanjay Gandhi was asked to furnish the latest information as regards his application to the financial institutions for approval of the scheme of finance and when the company intended making a public issue. A copy of the letter from the Haryana Government was also asked for. The meeting was followed by a letter from the company written on May 5, 1973 which again mentioned that the company had applied to the financial institutions along with the project report and expected to get clearance from them in due course. The letter further stated that the company intended making a public offer of its shares possibly by the end of 1973 and endorsed a copy of the Haryana Government's letter. The Haryana Government appears to have consented to invest to the extent of "25% of the share capital" of Maruti Limited without specifying whether it was in equity or in preference shares and in what proportion. This letter was not received in the section; Dr. Nigam says "it might have been received by me or by my personal assistant". Dr. Nigam recorded a note on the letter itself saying that it contained all information sought for and that the company's request could now be processed. Shri R. M. Bhandari in his note dated June 14, 1973 recommended private issue to the extent of Rs. 60 lacs which would make the total sanction for private issue 35.2 per cent of the issued equity capital of Rs. 5.25 crores. In his note Shri Bhandari also said that it should be made clear to the company that no further permission for private allotment would be given. On July 10, 1973 the second acknowledgment letter was issued but the condition that no further private allotment would be allowed was not included in the letter. According to Shri Radhakrishnan this was due to oversight.

Maruti Limited made two more applications, one on July 13 and the other on August 22, 1973 for permission to make further private issue of equity shares. Both these applications were rejected. Refusing Maruti's request made in the letter of August 22, the Controller of Capital Issues wrote to the company on December 12, 1973; "Government are unable to grant permission for raising any further capital by private allotment. In case the company desires to raise any further capital they are advised to raise it from the public by prospectus and by obtaining the necessary permission under the Capital Issues (Control) Act".

The next application which was made by Maruti Limited on August 27, 1974 was for consent for a public issue for Rs. 8,15,39,300. A draft prospectus was also sent along with the application which however lacked particulars in respect of certain important matters. The details of the scheme of finance, underwriting arrangements, number of shares offered for public subscription etc. had not been furnished. Further information was called for by the office of the Controller of Capital Issues on October 4 and on

November 11 the company furnished certain information. On January 18, 1975, another letter was issued to the company by the Director (Investment) seeking further clarifications. On January 20, 1975 Shri Pranab Kumar Mukherjee, Minister of Revenue and Expenditure, called Shri R. M. Bhandari and Shri J. P. Mukherjee, who had succeeded Dr. Nigam as Additional Controller of Capital Issues, to a meeting where Shri Rege, Secretary of Maruti Limited, was also present. The Minister told the officers that he wanted to know the facts of the case. Shri J. P. Mukherjee says that at this meeting it was agreed that a fresh acknowledgment would be issued. J. P. Mukherjee has stated further that later the Secretary to the Minister asked him on the telephone to expedite the matter.

Following this meeting Maruti Limited wrote to the Controller of Capital Issues on January 22, 1975 seeking permission for further private allotment of equity shares worth Rs. 1.16 crores. On January 27, 1975 the company replying to the letter issued from the office of the Controller of Capital Issues on January 18 repeated that their scheme of finance had been approved in principle by the public financial institutions and their "approval letters" were awaited. In connection with the company's request for permission to raise further capital to the extent of Rs. 1.16 crores by private issue Shri J. P. Mukherjee, Additional Controller of Capital Issues, recorded a note on February 8, 1975 seeking orders of the Finance Minister on the question of allowing the company to make a further private issue and suggested that private allotment upto Rs. 75 to Rs. 80 lacs might be permitted instead of Rs. 1.16 crores as asked for by the company. In this note Shri Mukherjee did not refer to the decision taken earlier not to permit any further private allotment. Shri R. M. Bhandari, Controller of Capital Issues, in his note dated March 21, 1975 also suggested that a further private issue to the extent of Rs. 85 lacs might be allowed. The note was sent to the Minister of Revenue and Expenditure Shri Pranab Kumar Mukherjee who on March 24, 1975 recorded the following note :

"We may give a further sanction for Rs. 1.16 crores (Rupees one crore sixteen lacs) i.e. for full 40% of the proposed equity capital as the same is permissible under the listing guidelines".

Shri C. Subramaniam, Finance Minister, approved Shri Pranab Kumar Mukherjee's note on April 5, 1975. Shri Subramaniam in his deposition has said that since Maruti Limited was pressed for funds he and the Minister of Revenue and Expenditure exercised their discretion in allowing the company maximum private issue of 40 per cent. The company never made a public issue through a prospectus. Thus Maruti Limited, a public limited company, raised its share capital without any formal invitation to the public to purchase its shares. The company's Annual Report and Accounts for 1974-75 shows its issued and subscribed share capital as Rs. 1,84,60,700 as at March 31, 1975. In the Annual Report and Accounts for 1975-76, which is the last Report available, the figure is Rs. 2,64,10,000. Dr. Nigam has told the Commis-

sion that during his tenure as Additional Controller of Capital Issues he had not "come across any other case of a public limited company in which only a private issue had been allowed and no public issue". Shri P. D. Kasbekar also says that during his tenure as Controller of Capital Issues "there was never a case where any company having first promised a public issue, went on making private issues only and never made a public issue".

Another remarkable feature appearing from the facts stated so far is that in four letters written to the Controller of Capital Issues on different dates, July 25, 1972; January 2, 1973; May 5, 1973; and January 27, 1975 Maruti Limited claimed that their scheme of finance had been approved in principle by the different public financial institutions, and the statement made on all the four occasions was untrue. H. C. Bhat of Unit Trust of India, C. R. Thakur of Life Insurance Corporation of India, D. J. Balajirao of Industrial Credit and Investment Corporation of India Limited, M. S. Nagrath of Industrial Finance Corporation of India and S. Rajendran of Industrial Development Bank of India have deposed before the Commission. It appears from their evidence that on the dates on which Maruti Limited addressed the four letters, none of the public financial institutions had received any application for approval of their scheme of finance and therefore no question could arise then of their accepting the scheme in principle. These witnesses have stated what happened. In August 1972 when the Chairman of the Unit Trust of India was in Delhi, Shri H. S. Mehta of M/s. H. S. Mehta & Co., a stock brokers' firm, informally handed over to him a preliminary project report on behalf of Maruti Limited. No action was taken on this. Then in November 1972 the Merchant Banking Division of the National and Grindlays Bank Limited, Bombay, who had been appointed by Maruti Limited to arrange finance for its car project, sent to all the public financial institutions a project report prepared by the Industrial Development Services, New Delhi. This report was not considered adequate. According to Shri Balajirao of Industrial Credit and Investment Corporation of India, it had "lots of gaps—the information given was very scanty and the technical aspects were not carried in details". Shri C. R. Thakur of the Life Insurance Corporation of India, has said that the report did not contain "information regarding the scheme of financing" and "there were many details even about the project report which were not made available". A questionnaire was prepared jointly by the public financial institutions and sent to the National and Grindlays Bank Limited, merchant Banking Division, Bombay, seeking further information on some basic points relating to the technical aspect. The reply received was also considered unsatisfactory and the financial institutions jointly wrote to the Bank asking for a formal application and a detailed project report. In July, 1973 Maruti Limited suggested a visit to the company's factory at Gurgaon by the representatives of the financial institutions where, it was said, the necessary details would be available. On August 9, 1973 a team of representatives from the public financial institutions visited the Maruti factory. They felt that the project was at a very preliminary stage and a detailed investigation into the various technical aspects

of the project was necessary. About a year and a half after their visit to the Maruti factory, in February 1975 Maruti Limited sent its application for financial assistance to the public financial institutions, this time through the Merchant Banking Division of the Central Bank of India, Bombay. The proposal was discussed at an inter-institutional meeting held on February 10, 1975 when a unanimous view was taken that "it was not possible to consider the project at present". Thus the public financial institutions never approved in principle or otherwise the financial scheme of Maruti Limited.

In the three acknowledgments issued to Maruti Limited, the company was permitted to raise share capital from promoters, directors and their friends. It appears however that in violation of this condition shares were allotted to all and sundry including several companies. Shri P. D. Kasbekar who was for some time the Controller of Capital Issues, in the course of his deposition has said that a company cannot be a friend of a director or promoter of another company though it can be an associate of the other company. Shri Raunaq Singh, one of the Directors of Maruti Limited, does not agree with Shri Kasbekar on the point. However it is not necessary to consider the point as an abstract question of law because in this case witnesses appearing on behalf of many of these companies have disclaimed friendship with the directors and promoters of Maruti Limited. Shri Sitaram Singhania and Shri Sohanlal Singhania, President and Director respectively of J. K. Synthetics Limited have said that their company was not a friend of any of the directors or promoters of Maruti Limited. Shri T. P. Ravindran, Chief Executive of Sudershan Trading Company Limited, Madras, says that his company did not purchase shares of Maruti Limited in the capacity of a friend of the promoters or directors of Maruti Limited. Shri G. Sagar Suri, Managing Director of Delhi Automobiles Private Limited, has said that his company was not a friend of any of the promoters or directors of Maruti Limited. Apart from the companies, individual shareholders like Shri B. N. Jhunjhunwala and Shri Om Prakash Modi have said that they were not friends of any director or promoter of Maruti Limited. Many from various parts of the country who approached the Management of the company for appointment as dealers of the Maruti car were forced to buy shares of the company; they could not be described as friends of the directors or promoters of Maruti Limited. Shri S. M. Rege, Secretary of Maruti Limited, says that he did not know who among the shareholders were the friends of the directors or promoters. Shri S. Kumar, Registrar of Companies, Delhi and Haryana, has told the Commission that if it had come to his notice that the persons to whom shares were allotted were not the friends of the directors or promoters of Maruti Limited, he would have referred the matter to the Controller of Capital Issues for necessary action.

Dr. Raj K. Nigam, Additional Controller of Capital Issues, in the course of his statement to the Commission said that a private issue should not have a public character, but this is exactly what happened when Maruti Limited offered its shares to a large number of persons and corporate bodies who could not be

described as friends of the company's directors or promoters.

The evidence before the Commission shows that in many cases improper methods were adopted to make persons buy Maruti shares. The following are some of the instances :

(i) Shri A. D. Kolhatkar, Personnel Manager of Maruti Limited, has said that he along with various other officers of the company were forced to purchase shares of the company. He bought the shares in the name of his wife and within six months from the date of the allotment he transferred the same to one Shri Devpujari.

(ii) Some of the applicants for dealership of the Maruti car were made to purchase shares of the company under threat. Some of the dealers have filed affidavits making this allegation ; several others who were examined as witnesses also made the same complaint. Shri Rege, Secretary of the Company, does not deny that in the letters written by him to some of the dealers he threatened them with drastic action ; he says that these letters were written after consultation with the Managing Director of Maruti Limited, Shri Sanjay Gandhi. This aspect will be considered in more detail in the next chapter which concerns the dealers. The dealership agreement itself included a term that one-third or one-fourth of the security deposit the dealers had to make might be converted into shares.

(iii) New Delhi Municipal Committee and the Government of Haryana used their authority to compel persons to buy Maruti shares. Shri Jawahar Lal Mehra, President of the Janpath Traders' Association, in his deposition describes how by issuing a notice of demolition of their shops, some of the shopkeepers were compelled to deposit with Maruti Limited a sum of Rs. 11,000 as the price of Maruti shares. Shopkeepers Harbans Singh, Baldev Kumar Wahi and Gulzari Lal Khanna, have deposed. They have stated that they were not at all interested in Maruti shares but were compelled to sign the share application forms out of fear that their shops might be demolished. The Janpath Market site had been provided by the New Delhi Municipal Committee for the rehabilitation of displaced persons on licence basis.

Shri Mohan Lakhani, Managing Director of Urban Improvement Company, has said that his company was trying to get a new colony in district Gurgaon approved by the Haryana Government. Shri Bansilal, Chief Minister of Haryana, conveyed through Shri Mehtani, an officer of the State Government, that the company must buy shares of Maruti Limited worth one lac of rupees. Ultimately his company, in spite of depleted financial resources, had to buy Maruti shares of the value of Rs. 10,000.

(iv) Sometimes threat and inducement were both used to sell Maruti shares. Shri Onkar Nath Gotewala, a coal dealer, has deposed that sometime in December 1975 he was summoned by Shri Sanjay Gandhi and told that he must buy Maruti shares for Rs. 1 lac or he would be arrested under the Maintenance of Internal Security Act. He told Sanjay Gandhi that it

might be possible for him to collect the money in about two or three months provided he got extension of time to lift 7,000 metric tonnes of coal out of 9,800 metric tonnes allotted to him in June 1975. Sanjay Gandhi assured him that he would see that the time was extended and promised to get him other concessions and facilities in his coal business. The witness got extension of time upto April 30, 1976 for lifting the remaining quantity of coal. The witness purchased shares of Maruti Limited worth Rs. 50,000 in the name of his son-in-law. Soon after the purchase the witness got a further allocation of 20,000 metric tonnes of very good quality coal. Thereafter the witness was again pressurized by Sanjay Gandhi for buying more shares and threatened with dire consequences if he failed to do.

(v) Certain companies who deposited money with Maruti Limited or invested in Maruti shares, for some undisclosed reason were not willing to do so in their own names and prevailed upon their agents or stockists to do it on their behalf providing them with necessary funds. Shri Sushil Kumar Deorah, a partner of Arvind Exports of Bombay, has deposed that his firm which was an agent of Kamani Engineering Corporation was asked by the latter to deliver to them some cheques signed but leaving them blank as regards the amount and the date and the name of the payee. The Chief Executive of Kamani told him that Kamani had to make a "substantial deposit" to some company and that Arvind Exports should make the deposit on their behalf. The arrangement was that Kamani would provide adequate funds before the cheques were presented for encashment and that after the borrowing company repaid the money Arvind Exports were to return it to Kamani. The name of the company with whom the deposit was made was later disclosed as Maruti Limited. The total amount paid as deposit by Arvind Exports was Rs. 6 lacs out of which Rs. 3 lacs was converted without their consent into shares by the Management of Maruti Limited. Kamani Engineering Corporation assured Arvind Exports that they would obtain the shares by transfer in their own name or nominate some other person as the transferee. 30,000 shares of Rs. 10 each were transferred to Kamani, and as regards the remaining three lacs of rupees Arvind Exports kept on writing to Maruti Limited for refund. In Shri Deorah's words : "Time passed, in the meantime emergency came and everything was transferred to cold storage".

Shri P. C. Arora, a stockist of the Hindustan National Glass Industries Limited, Bahadurgarh, says that being asked by the company he agreed to deposit Rs. 30,000 with Maruti Limited to buy Maruti shares in the names of some employees of the Hindustan National Glass Industries Limited. Subsequently share applications in the names of the employees of the company were handed over to him by a senior officer of the company and he sent them to Maruti Limited for allotment of shares. Some of the employees of the company have filed affidavits generally corroborating Shri Arora's statement. Shri Arora says that he got back his money from Hindustan National Glass Industries in June 1976.

Another big business house, J. K. Group of Industries, invested about Rs. 30 lacs in Maruti shares, but

some of these shares were not bought directly from Maruti Limited. The dealers of J. K. Synthetics Limited and Straw Products Limited, which is another J. K. concern, appear to have taken a sudden interest in Maruti Limited all in January 1975. Shri O. P. Gupta one of the partners of a firm known as New Brightways Hosiery Factory, Delhi, and Shri Lajpat Rai Aggarwal who manufactures nylon socks, are both dependant on J. K. Synthetics Limited for supply of nylon yarn. Shri Gupta says that he deposited Rs. 1 lac with Maruti Limited in January, 1975 which the company kept as dealership reservation money; this meant that the money was treated as an advance for dealership rights to be granted in future. According to Gupta he had to incur a loan in order to be able to deposit the sum and the loan was arranged by one Shri Subhash Chander Jain who worked in J. K. Synthetics Limited. In 1976 Gupta's firm wrote to Maruti Limited requesting them to convert the deposit into Maruti shares knowing, as Gupta himself admits, that Maruti shares had no value in the share market. J. K. Synthetics purchased the shares from them in February or March 1977 before Gupta's firm had received the share certificates. Shri Aggarwal deposited Rs. 1 lac as dealership reservation money also in January 1975. He did not get the dealership, and ultimately he decided to convert the deposit into shares of Maruti Limited. The money in deposit was worth 10,000 shares of Rs. 10 each. But before he took any step in this behalf J. K. Synthetics Limited agreed to purchase from him the shares to which he proposed to convert his deposit. Shri Aggarwal then wrote to Maruti Limited to convert the deposit into shares in the name of J. K. Synthetics Limited. The witness says that having made the deposit in January 1975 he did not make any inquiry from Maruti Limited as to the progress made in the production of the car. Neither O. P. Gupta nor Lajpat Rai Aggarwal had any previous experience in the automobile line.

Pee Kay Enterprises are paper merchants doing business in Chawri Bazar, Delhi. Kalyan Paper Mart, Ahmedabad, is also a firm engaged in paper business. Both these firms are dependant for supply of paper on Straw Products Limited. Shrimati Karuna Bhargava is one of the two partners of Pee Kay Enterprises, the other partner is Shrimati Pritama Bhargava. Shrimati Karuna Bhargava has deposed that in order to diversify their business the partners thought that they should get an agency of the Maruti car. They were told to deposit a sum of Rs. 1 lac for the purpose and they sent the cheque for the amount on January 25, 1975. According to Shrimati Bhargava, the partners advanced the money without any consultation with their husbands. From the account books of Pee Kay Enterprises which were produced before the Commission, it appears that the firm's business with Straw Products Limited increased in volume from February 1975. Shri N. S. Gandhi, one of the partners of Kalyan Paper Mart, also gave evidence. He deposited a sum of Rs. 1 lac on January 27, 1975 with Maruti Limited for the grant of dealership rights of Maruti car. Maruti Limited treated the amount as dealership reservation money. According to Shri N. S. Gandhi the partners of the firm thought of diversifying their business because of recession in the paper business. He admits that

before investing the money he did not make any inquiry whether the company had been granted a licence to manufacture cars, nor as to the exact sum that was required to be paid for getting the dealership rights, nor as regards the price at which the car was to be sold. From the books of account of the firm it appears that the firm's total sales were on the increase from 1974 and the firm did not suffer any loss during any of the financial years from 1970 to 1977. The witness however says that by recession he did not mean to suggest that their sales had gone down, what he meant was that their profit margin showed a downward trend. Shri N. S. Gandhi admits that in July 1975 the Government had imposed certain restrictions on the paper mills on the production of certain varieties of paper and there was a shortage of paper of the said varieties. Shri Gandhi does not dispute that in this situation the paper mills were in a position to favour the dealers of their own choice. Both Shrimati Bhargava and Shri N. S. Gandhi admit that they had no previous experience as car dealers. Neither Bhargavas' firm nor Gandhi's had any occasion to exercise the dealership rights they had paid for; according to them their money has not been refunded.

O. P. Gupta, Lajpat Rai Aggarwal, Shrimati Karuna Bhargava and N. S. Gandhi have all denied that they were in any way pressurized by J. K. Synthetics Limited or Straw Products Limited to invest in Maruti Limited. Shri Sitaram Singhania, President of J. K. Synthetics Limited, Shri Hari Shankar Singhania, Chairman and Managing Director of Straw Products Limited, and Shri Sohanlal Singhania, Director of J. K. Synthetics Limited have given evidence. They have also denied that they exerted any pressure on their dealers or agents to invest in Maruti shares or to become dealers of Maruti car by depositing large sums of money with Maruti Limited. However, certain other facts which might be relevant may be stated here. On November 21, 1975 Rameshwar Aggarwal, Export Manager of J. K. Udyog Limited was arrested and detained under the Maintenance of Internal Security Act (MISA) and later his detention was continued under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA). A detention order under MISA had been issued also against Shri Bharat Hari Singhania, a brother of Hari Shankar Singhania. Certain other proceedings had been initiated by the Enforcement Directorate against two Directors of J. K. Synthetics Limited, Shri Hari Shankar Singhania and Shri Sripat Singhania, for violation of Foreign Exchange Regulation Act which were also pending. In this situation Sohanlal Singhania and Hari Shankar Singhania saw Shri S. B. Jain, Special Director of Enforcement on November 22, 1974 to protest against Rameshwar Aggarwal's arrest and the apprehended arrest of Bharat Hari Singhania. Shri Sohanlal Singhania says that they also met Shri Pranab Kumar Mukherjee, Minister of Revenue and Expenditure, Shri Om Mehta, Minister of State in the Ministry of Home Affairs, and Shri R. K. Dhawan, Additional Private Secretary to the former Prime Minister, attempting to secure Rameshwar Aggarwal's release and to prevent the arrest of Bharat Hari Singhania. The attempts were continuing in January 1975 when the Yarn dealers and the paper merchants depending on the J. K. Group

of Industries for their business started buying the shares of Maruti Limited and making deposits for dealership of the Maruti car. Rameshwar Aggarwal was released on June 27, 1975 and on the same day J. K. Synthetics Limited paid a sum of Rs. 1 lac for buying shares of Maruti Limited. Between June 27, 1975 and April 25, 1977 J. K. Synthetics Limited invested a total sum of Rs. 29,90,000 in the shares of Maruti Limited. Shri Sitaram Singhania admits that in no other company outside the J. K. Group, J. K. Synthetics' investment approaches this figure.

J. K. Synthetics made an application on October 3, 1975 under section 372 of the Companies Act for approval by the Central Government of an investment of Rs. 20 lacs in the shares of Maruti Limited. But before the application was made, J. K. Synthetics had already invested Rs. 5 lacs in Maruti. J. K. Synthetics made another application under section 372 on September 29, 1976 for approval of a total investment of Rs. 40 lacs in Maruti shares. Before the second application was sent, a further investment of Rs. 12.5 lacs had been made. Shri Ved Prakash Uppal, Under Secretary, Department of Company Affairs, said that section 372 did not contemplate *ex post facto* approval, but he pointed out that the investments were within 10 per cent of the subscribed capital of Maruti Limited at the material time and therefore the prohibition in section 372(4) was not attracted. However, the Department of Company Affairs did give sanction to the investment on October 8, 1976. From the evidence given by Shri A. Choudhury, Joint Secretary, Department of Company Affairs, it appears that the note regarding approval of the investment of J. K. Synthetics in Maruti Limited was put up to him by the Under Secretary on October 6, 1976, he endorsed the note on the same day and passed on the file to the Deputy Minister who approved the proposal also on the same day. Shri Choudhury admitted that normally it took about 3 or 4 days to dispose of a file at his level. Shri Uppal said that the file of J. K. Synthetics relating to the investment in Maruti Limited was dealt with at all levels within 6 working hours. Shri Choudhury disclosed that "there was a query from the office of the then Minister in charge, Shri H. R. Gokhale, regarding this case sometime between June and October 1976 as to why this case was pending", and in answer it was pointed out that the resolution of the shareholders of the company approving the investment had not been received in the Department of Company Affairs.

There are certain departmental guidelines for examining applications under section 372 of the Companies Act. Some of these guidelines are—(i) the investing company must have adequate liquid resources for making the investments; (ii) a company that has resorted to borrowings for its own requirement or intends to finance its investment by borrowing should not be permitted to make the investment (there is a proviso to this guidelines which is not relevant for the present purpose); (iii) the company in which investment is proposed should be in a sound financial position, should have earned profits and declared dividends or should at least

clearly be capable of making profits and declaring dividends within a reasonable period of time.

These guidelines were issued in 1962. Shri A. Choudhury who approved the investment of J. K. Synthetics in Maruti Limited thought that the guidelines were "flexible" and that "over the years certain practices had developed". According to him many of the guidelines had no meaning for a new company. He said that the guidelines were only illustrative and the circumstances of each case had to be considered. Shri Choudhury kept in view two principles in this case, whether the investing company had adequate funds and whether the investee company could "give a reasonable return to the investing company". It is not clear how he satisfied himself on the second point. He admitted that he did not examine the balance-sheets of Maruti Limited. He was asked whether he thought that Maruti Limited was capable of making profits and declaring dividends within a reasonable time. He parried the question by saying "well, this a hypothetical question, whether they will be able to declare dividends within a reasonable period of time. Now if we start defining what is reasonable here then you have to define what is the gestation period in a car manufacturing company". The annual report of Maruti Limited for the year ending March 31, 1975 showed a deficit of Rs. 1,06,53,321 to be carried forward to the next year. There was no material before Shri Choudhury to show that the adverse financial position was a passing phase.

The warrant of arrest against Shri Bharat Hari Singhania was not ultimately executed. Sitaram Singhania says that J. K. Synthetics Limited invested in Maruti shares because they thought that "Maruti company had good prospects and it would be profitable to invest". The annual reports of the company however tell a different story. Till March 31, 1976 J. K. Synthetics invested a sum of Rs. 12 lacs in Maruti shares. The annual report of the company for the year ending March 31, 1976 shows the total deficit carried forward to the next year as Rs. 1,59,64,390. Thereafter on August 6, 1976, September 10, 1976, April 2, 1977 and lastly on April 25, 1977 respectively J. K. Synthetics Limited invested the following sums in Maruti shares, Rs. 4,50,000, Rs. 1,00,000, Rs. 8,45,000 and Rs. 3,95,000. In May, 1977 an application for the winding up of Maruti Limited was presented before the Punjab and Haryana High Court. On these facts it could hardly be said that the investments were inspired by a genuine belief that "Maruti company had good prospects and it would be profitable to invest". The facts stated above suggest that there was some reason behind the sudden interest evinced in Maruti shares by Kamani Engineering Corporation, the Hindustan National Glass Industries Limited and the J. K. Group of Industries.

(vi) To attract more share capital Maruti Limited incorrectly represented to certain companies that their investment would be within the prescribed limit of 10 per cent of the subscribed capital of Maruti Limited. Shri R. N. Bansal, Registrar of Companies, Maharashtra, has disclosed that Maruti

Limited had induced Killick Slotted Angles Limited of Bombay to invest Rs. 2.60 lacs on the assurance that the amount of Maruti's subscribed capital would be soon raised. In fact the investment exceeded 10 per cent of the subscribed capital of the investee company. On January 3, 1972 when Killick Slotted Angles Limited invested the said amount, the subscribed capital of Maruti Limited was only Rs. 20,00,700. This sum was inclusive of Rs. 17 lacs which was the value of 1,70,000 shares allotted on that day to various shareholders including 26,000 shares to Killick Slotted Angles Limited. Excluding Rs. 17 lacs, the subscribed capital was only Rs. 3,00,700. Maruti Limited made similar representations to two other companies, Filtrona India Limited, Bombay, and Automobile Products of India, Bombay, contrary to the real position. Shri T. P. Ravindran, Chief Executive of Sudershan Trading Company Limited, Madras, has said in his deposition that his company invested Rs. 3 lacs in the shares of Maruti Limited on the representation made by Maruti Limited that its subscribed capital was about Rs. 1 crore. The investment was made on December 10, 1971 when the invested amount exceeded 10 per cent of the subscribed capital of Maruti Limited. The investing company did not get the necessary prior approval of the shareholders and the Central Government before making the investment because of the representation made by Maruti Limited.

(vii) Shares were allotted in the names of persons who did not buy the shares and had no knowledge of the allotment. Shri A. Banerjee, Income Tax Officer, Central Circle XVIII, New Delhi, who had been handling the cases of Maruti Limited for purposes of income tax assessment since September, 1977 has given evidence before the Commission. He says that he had to inquire about the sources of share capital received by the company over the years and for that purpose issued notices to many of the shareholders named in the list of shareholders as on September 30, 1976 including twenty of them residing in Bihar. Shri Banerjee's evidence is that except one person, Dr. (Miss) Kiran Sharma of Lakhisarai, Monghyr (Bihar), nineteen of them wrote to him denying purchase of any share of Maruti Limited and disclaiming any knowledge of the shares having been purchased in their names. Of these nineteen alleged shareholders, Dr. Mahavir Mishra has deposed. He says that he did not apply for or sign any application form for purchase of shares of Maruti Limited and that the signatures appearing on the applications alleged to be his and of his sons Uday Chandra Mishra and Prakash Chandra Mishra were not their signatures. Dr. (Miss) Kiran Sharma wrote to the Income Tax Officer from England saying that Maruti shares worth Rs. 1,000 were purchased in her name by L. N. Misra and that she did not know in what way the payment was made. This Commission also received information on this aspect from the Commissioner and Secretary to Haryana Government, Vigilance Department, Chandigarh; Officer on Special Duty, Emergency Excesses Inquiry Authority, Delhi; Special Secretary to the Government of West Bengal—Home (Poll), Calcutta; and Assistant Secretary to the Government of Bihar, Cabinet (Vigilance)

Department, Patna. The communications received from them disclose that some of the alleged shareholders did not live at the addresses recorded in the books of Maruti Limited. Some of the streets or Lanes mentioned did not exist. Some of the names did not appear in the electoral rolls and their whereabouts could not be traced. In some cases the alleged shareholders had not resided at the addresses given for the last ten years. Some trading companies said to be operating from a particular place did not exist. The records of Food and Supplies Department also failed to indicate the whereabouts of some of the alleged shareholders. Shri S. Kumar, Registrar of Companies, Delhi and Haryana, has said that if this fact had come to his notice he would have taken up the matter with the company and taken all possible action under the Companies Act.

Large sums received by the company with applications for shares appear to have been retained by them for an indefinite period without allotting the shares. The Annual Report and Accounts of the company for 1975-76 shows the amount of share application money pending adjustment as at March 31, 1976 as Rs. 46,89,350. Shri S. M. Rege, Secretary of Maruti Limited, maintained that as this was a private issue, section 69(5) of the Companies Act did not apply. Shri S. Kumar, Registrar of Companies also thinks that this did not constitute a violation of the Companies Act but admits that it was unusual.

The annual reports of the company for the years 1971-72, 1972-73, 1973-74, 1974-75, 1975-76 duly signed by the Managing Director and other Directors and authenticated by the Secretary contained statements and promises which were often untrue and baseless seeking to paint a bright picture of the progress of the Maruti car project. This was done apparently to induce people to invest in Maruti and to retain the confidence of those who had already invested. Though Maruti Limited had been permitted to offer its shares for sale only to the promoters, directors and their friends, in fact, as the evidence discloses, the shares were being sold to all and sundry.

In the applications made to the Controller of Capital Issues on May 12, 1972 and August 27, 1974 Maruti Limited stated that they required funds, among other things, for working capital as well. Apart from the methods by which the share capital of the company was raised, a part of which was used as working capital, Maruti Limited appears to have raised working capital by several other methods. Some of the methods employed may be mentioned:

(i) Shri J. K. Pahuja, Manager (Finance and Credit) of Maruti Limited, has said that the money received from the dealers as Security deposits was utilised for the operation of the company. The books of account of the company do not show that the deposits were kept in a separate fixed deposit account. The dealership agreement indicates that the deposit was really a "security deposit" which was to be adjusted at the rate of Rs. 500 with the supply of each car to the dealer. No car for sale was

supplied to any of the dealers and the dealership money was not refunded except in a very few cases. There were cases where a cheque issued to a dealer as refund of his deposit was not honoured when presented for encashment. In March, 1977 a cheque was drawn on the Mullahera Branch of the Central Bank of India by way of refund of the deposit made by M/s. Industrial India, New Delhi. The cheque was not honoured when presented for encashment. Thereafter the firm was given a bank draft for Rs. 50,000 and a cheque on the same bank for a similar amount in April 1977. This cheque was also dishonoured. In February 1977 Maruti Limited issued a cheque for Rs. 25,000 in favour of Sree Hanuman Jute Mills of Calcutta. This cheque as well was returned by the bank unpaid with the remark : "exceeds arrangement".

(ii) From Shri Pahuja's evidence it appears that income tax deducted at source by Maruti Limited on interest payable to the dealers for the years 1973-74 and 1974-75 amounting to Rs. 3,41,741 was deposited to the credit of the Central Government very late and the amount was used in the meantime as working capital. Similarly the tax deducted from the employees' salaries and payments to the contractors was utilised as working capital before it was deposited.

(iii) On an application made by Delhi Automobiles Private Limited sometime in May 1977, the Punjab and Haryana High Court made an order for the winding up of the company on March 6, 1978. A statement of affairs of Maruti Limited as on July 22, 1977 signed by Major Kapil Mohan, a Director of Maruti Limited, was produced before the High Court by the official liquidator. Shri Pahuja admits that this statement discloses that other dues on account of salary and wages, provident fund and employees state insurance, sales tax etc. amounting to about Rs. 25 lacs were also used as working capital.

Some instances of the other methods by which the Maruti Limited increased its financial resources may be cited :—

(i) On May 30, 1975 the company entered into an agreement with one Kanhiya Lal Goel for the lease of 125 acres of land out of the land in company's occupation on a consideration of Rs. 450 per acre per year. This was a clear violation of clauses 7 and 8 of the Agreement between the company and the Government of Haryana on the basis of which Maruti Limited came into possession of about 297 acres of land in Gurgaon district. Shri Raunaq Singh, one of the Directors of Maruti Limited, says that he was not aware of this transaction for which approval of the Board of Directors was not obtained.

(ii) Later, on August 28, 1976, 36 acres was taken out of the land leased out to Goel and transferred to B. G. Shirke and Company by way of a lease at the rate of Rs. 1,000 per acre per annum. This was again an infringement of the Agreement with the Government of Haryana, though in this

case the Board of Directors by a resolution passed at a meeting held on August 26, 1976 approved the transaction.

(iii) A part of the Maruti premises was let out to Maruti Heavy Vehicles Private Limited at a rent of 40 paise per square feet. The Board of Directors passed a resolution on March 1, 1974 sanctioning the transaction. This also was done without the prior approval of the Haryana Government required under clause 7 of the Agreement. It has however not been possible to ascertain the exact area utilised by Maruti Heavy Vehicles Private Limited.

(iv) Cement and steel purchased by the company for its own needs on Government permits, the commodities being controlled items at the relevant time, were also sold to various persons and there was no resolution of the Board of Directors approving the sale of these commodities. These transactions will be considered in more detail in Chapter VII. Shri B. M. Pant who was General Manager of Maruti Limited from July 1, 1975 to August 14, 1977 admits that apart from cement and steel other building material, stores and raw material were sold during the first half of May 1977 under the orders of Shri Sanjay Gandhi for getting cash receipts for disbursement to the workers and creditors of the company. Shri Gandhi had ceased to be Managing Director from February 1977 and by Resolution dated April 18, 1977 and May 7, 1977 the Board of Directors had taken over the day-to-day administration of the company. However, no meeting of the Board took place after May 7, 1977. Shri Pant says that he was taking orders from Shri Sanjay Gandhi though Shri Gandhi was no longer the Managing Director. Shri Harkaran Singh, Official Liquidator, deposing before the Commission has disclosed that certain stores valued between Rs. 8 and 9 lacs belonging to Maruti Limited were disposed of in May 1977 either just before the winding up petition was filed or immediately thereafter, and the sum was paid to some of the creditors of the company. The witness also mentioned the names of the parties to whom the stores were sold. The Board of Directors did not authorise the selling of stores and it cannot be said that this was done in the ordinary course of business of the company.

A large part of the financial resources of Maruti Limited was naturally employed in setting up the Maruti complex of buildings and getting the necessary machinery and equipments for the car project but not altogether insignificant portion of the resources was frittered away in several ways. Shri R. H. Chawdhry, Chief Executive of the company, says that approximately Rs. 57 lacs was spent on the development of the prototype which sum, according to him, was "most exorbitant". Such a large sum was spent only because, as Shri Chawdhry has explained, there was "no fixed and firm design model" and that "thousands of changes were being incorporated and all components and materials produced during the various earlier stages were rendered as scrap". According to Shri A. D. Kolhatkar, Manager, Personnel and Factory Administration of Maruti Limited, the company was overstaffed in certain departments. Kolhatkar has also said that bogus muster rolls were

prepared for showing expenditure under the head 'wages' but actually the money was spent for other purposes. According to him bogus vouchers used to be made out for the workers' welfare expenses but in fact except some expenditure on sports nothing was spent on workers' welfare.

According to a resolution passed by the Board of Directors on April 18, 1977 the General Manager of the company was to seek orders of the Board of Directors for day-to-day administration of the company after that date. By another resolution dated May 7, 1977 it was decided that for the time being the company would be managed by the Board. But on May 13, 1977 a sum of Rs. 1 lac appears to have been paid to Shri Naunit Lal, an advocate of the Supreme Court of India, for the defence of the company before the Commission of Inquiry on Maruti Affairs. The Commission was not appointed then. The payment was authorised by Shri B. M. Pant, General Manager of the company. Shri Pant says that he was instructed by Shri Sanjay Gandhi to make this payment to Shri Naunit Lal. In accordance with the aforesaid resolutions of the Board of Directors, an approval of the Board should have been obtained for the payment but there was no meeting of the Board after May 7, 1977. Shri Pant admits that till May 27, 1977, for day-to-day administration of the company he was taking orders from Shri Sanjay Gandhi who had ceased to be Managing Director sometime in February 1977 but continued to be a Director. A part of the said sum of Rs. 1 lac was used in defending the liquidation proceedings before the Punjab and Haryana High Court, and some amount out of the sum was spent for Shri Naunit Lal's remuneration for some legal work done for Maruti Technical Services Private Limited. Shri Harkaran Singh, Official Liquidator, made inquiries about this sum from Shri Naunit Lal and others and also issued a notice for refund of the amount. According to Shri Harkaran Singh the management was not authorised to make the payment when there was already an application pending for the winding up of the company. He points out that there was no resolution of the Board of Directors authorising such payment.

A sum of Rs. 32,948 was paid by way of encashment of leave to certain officers of Maruti Limited. The payment was authorised by Shri B. M. Pant, General Manager. There was no resolution of the Board of Directors authorising the payment. The payment was not made to all the employees but to a few officers only; according to Pant the idea was to prevent the officers going on leave *en masse*. Pant says that he had obtained Sanjay Gandhi's approval before making the payment. He admits that approval of the Board of Directors was necessary for the payment made but no Board meeting was held after May 7, 1977. Sanjay Gandhi in a letter to the Official Liquidator denied that this payment and certain other payments were made with his knowledge or consent and said that he had not authorised the General Manager or any one else to make these payments. Pant also admits that a sum of Rs. 50,000

was paid to Maruti Heavy Vehicles Private Limited on May 14, 1977. The liquidation proceedings had then started in the Punjab and Haryana High Court. The Board of Directors did not authorise the payment of this sum. According to Shri Pant it was repayment of a loan which Maruti Limited allegedly owed to Maruti Heavy Vehicles Private Limited. Maruti Heavy Vehicles Private Limited was a subsidiary company of Maruti Technical Services Private Limited which in turn was practically a family concern of Shri Sanjay Gandhi and his close relatives. Shri Harkaran Singh, Official Liquidator, says that he has filed a suit in the Punjab and Haryana High Court for recovery of this sum.

The books of Maruti Limited show that large sums of money were refunded in February 1977 to a number of persons who had applied for Maruti shares and dealers. The money paid by the share applicants and the dealers were in deposit with the company. Shri Harkaran Singh has said that in his capacity as Official Liquidator he tried to contact some of the persons to whom payments had been made but they were not traceable at the addresses given. Shri A. Banerjee, Income Tax Officer, has shed more light on this aspect. He says that he received from the Central Bureau of Investigation a register of Maruti Limited which they had seized (Item No. 46 dated 28th May, 1977). This document contains the details of certain repayments made by the company to various persons described as shareholders and depositors. All the payments were made in February 1977 and the total sum is around Rs. 13-14 lacs. Shri Banerjee made inquiries about these persons either by addressing registered letters to them or through the concerned Income Tax Officers and Assistant Commissioners of the various places, and his inquiries revealed that these shareholders and depositors did not exist. One Shri B. D. Sharma who was named as a depositor appeared before the concerned Income Tax Officer and stated on oath that he had not advanced any loan to Maruti Limited at any time. Shri Banerjee says in his deposition that the object of "introduction of moneys in the names of bogus persons" was clearly to introduce "unaccounted income in the books of account of the company to give the colour of accountability to the unaccounted incomes of various people in the names of people who do not exist" and that from the alleged return of these sums to persons who did not exist it would be "reasonable to presume that the moneys were used for some other purpose by the people concerned with the running of the company". It has already been stated that the repayments were all made in February 1977; it may be mentioned that the last General Elections in the country were held in March 1977.

MARUTI TECHNICAL SERVICES PRIVATE LIMITED

Maruti Technical Services Private Limited was incorporated on November 16, 1970. The particulars of the shareholders of Maruti Technical Services Private Limited according to the latest annual return

made up to March 7, 1977 and also including the allotment made on June 7, 1977 are as follows :—

Sl. No.	Name of the Member	Address	No. of shares (Equity)	Date of allotment
(i)	Shri K.L. Shroff	B-5, NDSE-II, New Delhi.	100	9-6-1975 (By transfer)
(ii)	Shri Sanjay Gandhi	1-Safdarjang Road, New Delhi	10 1500 10000	16-11-1970 15-12-1971 19-11-1973
		12-Willingdon Crescent, New Delhi.	2000	7-6-1977
(iii)	Smt. Sonia Gandhi	—do—	10 1900*	16-11-1970 4-2-1974
(iv)	Miss Prianka Gandhi (Minor under guardianship of Shri Rajiv Gandhi)	—do—	4000	4-2-1974
(v)	Master Rahul Gandhi (Minor under guardianship of Shri Rajiv Gandhi).	—do—	4000	4-2-1974
			23520	

(*On June 9, 1975 the share certificate for 2,000 equity shares in the name of Shrimati Sonia Gandhi was sub-divided into two share certificates of 1,900 and 100 shares respectively and the said 100 shares were transferred to Shri K. L. Shroff).

Shri S. M. Rege in his deposition has said that it was known to all concerned that Shrimati Sonia Gandhi was a foreign national and not a citizen of India. Under section 29(1)(b) of the Foreign Exchange Regulation Act, 1973 allotment of shares of an Indian company to a person who is not a citizen of India but is a resident of India without prior approval of the Reserve Bank of India is prohibited. Shri S. Kumar, Registrar of Companies, Delhi and Haryana, says that the allotment of shares to Shrimati Sonia Gandhi in 1974 was in contravention of the Foreign Exchange Regulation Act, 1973 and therefore *ab initio* void. The shares allotted to Shrimati Sonia Gandhi were cancelled by the company subsequently. According to Shri Kumar the cancellation of fully paid up equity shares amounted to reduction of capital in contravention of sections 100—104 of the Companies Act, 1956, and for this, Kumar says, necessary show cause notice had been issued to the Directors and the matter was under consideration of the Department of Company Affairs.

The books of the company show an interest free cash loan of Rs. 20,000 received from one O. P. Shingal during the previous year relevant to the assessment year 1972-73. Shri A. Banerjee, Income Tax Officer, says that the company could not produce a confirmatory letter from the creditor. Notices and summons issued in the name of alleged creditor were returned unserved. The postal remark was that there was no such person at the address given. The assessment of the company for the assessment year 1972-73 was reopened after obtaining the permission of the Commissioner of Income Tax. In the assessment this sum of Rs. 20,000 was treated as unaccounted income of the company and was added to its total income and the company was taxed accordingly. According to

Shri Banerjee the obvious intention of the company was to "convert unaccounted money into accounted money without payment of income tax thereon".

Shri Om Prakash Modi who was for sometime a partner of M/s. Jalan Modi Automobiles of Calcutta and is a shareholder of Maruti Heavy Vehicles Private Limited, has told the Commission that in December 1973 and February 1974 a total sum of Rs. 7,50,000 was sent to M/s. Jalan Modi Automobiles out of the bank account of Maruti Technical Services for purchasing road roller components on behalf of Maruti Heavy Vehicles Private Limited. Maruti Heavy Vehicles Private Limited had not come into existence then. No resolution appears to have been passed by the Board of Directors of Maruti Technical Services Private Limited for disbursing this sum of Rs. 7,50,000.

MARUTI HEAVY VEHICLES PRIVATE LIMITED

Maruti Heavy Vehicles Private Limited was incorporated on February 22, 1974. From the facts appearing in the preceding paragraph, this company started business before incorporation with the help of funds of another company. The particulars of the shareholders of the Maruti Heavy Vehicles Private Limited are set out below :

Sl. No.	Name & Address of Member	No. of shares (Equity)
(i)	Shri Sanjay Gandhi, 1, Safdarjang Road, New Delhi.	7500
(ii)	Smt. Sonia Gandhi, 1, Safdarjang Road, New Delhi.	3000
(iii)	Shri Krishan Lal Jalan, 7, Babulal Lane, Calcutta-7.	6000
(iv)	Shri Om Parkash Modi, 41-A, Tarachand Dutta Street, Calcutta-1.	10500
(v)	Shri Rajiv Gandhi, 1, Safdarjang Road, New Delhi.	2400
(vi)	M/s Maruti Technical Services Pvt. Ltd. 4759/ 11, 23-Daryaganj, Delhi.	88000
(vii)	Shri Pawan Kumar Jalan, 64/10-B, Suren Sarkar Road, Calcutta-10.	3500
(viii)	Shri Suresh Kumar Jalan, 64/10-B, Suren Sarkar Road, Calcutta-10.	2500
(ix)	Smt. Laxmi Devi Jalan, 64/10-B, Suren Sarkar Road, Calcutta-10.	5000
(x)	Shri Sheo Kumar Jalan, 64/10-B, Suren Sarkar Road, Calcutta-10.	2500
(xi)	Shri Dwarka Prasad Modi, 41-A, Tarachand Dutta Street, Calcutta-1.	10000
(xii)	Shri Satya Narain Modi, 41-A, Tarachand Dutta Street, Calcutta-1.	10000
(xiii)	Smt. Menaka Gandhi, 12, Willingdon Crescent, New Delhi.	2500
		1,55,400

The allotment of shares of Maruti Heavy Vehicles Private Limited to Shrimati Sonia Gandhi which was made on February 22, 1974 was void *ab initio* according to Shri S. Kumar, Registrar, of Companies, for the same reasons he mentioned regarding her shares

in Maruti Technical Services Private Limited. Here also the shares allotted to Shrimati Sonia Gandhi were subsequently cancelled by the company and according to Shri Kumar the cancellation was irregular for the reasons he had earlier stated.

SUMMARY OF SPECIAL FEATURES

The facts disclosed show that the methods by which the Maruti concerns raised capital and the manner in which they utilised their financial resources have not been always proper or regular. Maruti Limited, a public limited company, functioned till the order for its winding up was made without inviting capital from the public by prospectus which was something unique, and though the company was supposed to offer its shares only to the promoters, Directors and their friends, the shares were sold to all and sundry indiscriminately, often thrust on people by coercion, threat or misrepresentation. To get acknowledgement for private issue from the Controller of Capital Issues, Shri Sanjay Gandhi, Managing Director of Maruti Limited wrongly informed the Controller of Capital Issues that the Board of Directors by a resolution passed on June 29, 1972 had decided "to fix the amount of the issued capital at Rs. 7,00,00,000 (Rupees 7 crores)", knowing that no such resolution had been passed on that day and made a series of untrue statements to the effect that the public financial institutions had approved in principle the financial scheme of the company. The way certain public limited companies induced their agents to be dealers of the Maruti car by depositing large sums of money and to buy shares of Maruti Limited for which funds were arranged by these companies, the mysterious coincidence of the Export Manager of J. K. Udyog Limited being released from detention under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 on the day on which J. K. Synthetics Limited started buying shares of Maruti Limited, their investments in Maruti shares continuing till April 1977 in which period an order of detention under the Maintenance of Internal Security Act against a brother of the Chairman and Managing Director of Straw Products Limited, a J. K. concern, was not executed, the non-existent persons to whom large sums of money were shown to have been returned on the eve of the last General Elections, the manner in which the resources of Maruti Limited were frittered away—all these topics have been discussed in the foregoing pages. What is remarkable is that Maruti Limited got away with every thing. Shri S. Kumar, who has been Registrar of Companies, Delhi and Haryana, since January 15, 1973 repeated several times while giving evidence before the Commission when some irregularity in the functioning of the Maruti concerns was pointed out to him, that if it had come to his notice earlier he would have taken action. He took action ultimately on May 27, 1977 by taking up the technical scrutiny of the balance sheets of these concerns. According to Shri Kumar this could not be done earlier due to the "acute paucity of staff", but the position in this regard had not changed much in May 1977. Shri Kumar added that earlier he thought that "there was no need of technical scrutiny" but "later on when the change of Government was there and a furore was being created

about Maruti in the press, I thought in my wisdom that as a special case I should conduct technical scrutiny of these companies and collect whatever material may be for answering further questions if any". It was pointed out to Shri Kumar that after he joined as Registrar of Companies and before the last General Elections were held in the country in March 1977, a number of questions had been asked in Parliament about the irregularities, illegalities and contravention of the law in regard to the affairs of the Maruti concerns which were also published in the newspapers. In fact Shri Kumar himself said that he furnished information to the Department of Company Affairs from the material available on the records with him, obviously for the preparation of answers to the questions asked in Parliament. It is therefore difficult to understand why in spite of the irregularities alleged in Parliament, which were published in the newspapers, he did not consider it necessary to take any action earlier similar to that he did in May 1977.

Dr. Raj K. Nigam, Additional Controller of Capital Issues, and the Department of Economic Affairs were also extremely helpful to Maruti Limited. Dr. Nigam personally received two of the applications made by Maruti Limited to the Controller of Capital Issues and allowed the company to raise capital by private issue on the verbal assurances of Shri Sanjay Gandhi because he thought that "a man of his status could not go back upon the assurances given to the Government". This suggests that Dr. Nigam acted on the assurances of Shri Gandhi not because he was convinced of Shri Gandhi's integrity as businessman but because of his status as the Prime Minister's son. Ultimately Nigam admitted that he was pressurised by Sanjay Gandhi. In April 1975 Shri C. Subramaniam, Finance Minister, approved the proposal of Shri Pranab Kumar Mukherjee, Minister for Revenue and Expenditure, to allow Maruti Limited the maximum private issue of 40 per cent of the proposed equity capital on the ground that Maruti Limited was pressed for funds. In exercising their discretion the Ministers do not appear to have taken into account that till then the company had failed to make a public issue, and that not even two months earlier, in February 1975, the Public Financial institutions had turned down the company's request for financial assistance. The speed with which the Department of Company Affairs disposed of the file of J. K. Synthetics Limited relating to their investment in Maruti Limited was remarkable. According to Shri V. P. Uppal, Under Secretary in the Department, it was dealt with at all levels within six working hours. Shri A. Choudhury, Joint Secretary in the Department disposed of the file on the same day it was put up to him and he admitted that normally it took about three or four days to dispose of a file at his level. Shri Choudhury had to satisfy himself in a few hours that Maruti Limited could "give a reasonable return to the investing company". He could not possibly hold up the file to examine more closely the financial position of Maruti Limited because the Minister incharge had made it known by his telephone call that he was interested in the speedy disposal of Maruti matters. Shri Uppal stated : "while processing and granting approval to the investment by J. K. Synthetics Limited in the share capital of Maruti Limited to the tune of 40 lacs we were aware that we were dealing with a sensitive

matter pertaining to Maruti Limited of which Shri Sanjay Gandhi was the Managing Director”.

Reference has been made in the previous chapter to the evidence of Shri B. N. Tandon, Joint Secretary in the former Prime Minister's Secretariat, that “the various Ministries used to refer questions regarding Maruti Limited and allied concerns and members of the Prime Minister's family to the Prime Minister for her approval/clearance”, and that even the replies to the letters written by members of Parliament were finalised only after the Prime Minister had seen and approved them. Shri Jyotirmoy Bosu in a letter dated November 4, 1974 addressed to the Minister of Law, Justice and Company Affairs levelled a charge that the Department of Company Affairs had been deliberately withholding from him information relating to Maruti Limited. In an unnumbered file of the Department of Company Affairs there are notings by Shri C. M. Narayanan, Director, and Shri K. K. Ray, Secretary, of the Department of Company Affairs which are reproduced below :—

“Shri Jyotirmoy Bosu, M.P., has, in his letter dated 4th November, 1974 levelled a charge that we have been deliberately withholding from him information relating to Maruti Ltd. There has never been an occasion where we have withheld, deliberately or otherwise, any information that is available with us. In second para of his letter he wants to know the ‘real’ value of the assets of the company. Schedule VI of the Companies Act prescribes that the balance sheet should indicate the original cost of the fixed assets as also the depreciation. This has been furnished by the company in its balance sheet. We had never any necessity for ascertaining the intrinsic or market value of the assets of the company. The balance sheet of Maruti Ltd., a public limited company, is available for public inspection. However, we may furnish full details of the assets as revealed by the latest balance sheet (as at 31st March, 1974) to Shri Bosu.

Draft D. O. to Shri Bosu for approval.

Sd/- C. M. Narayanan,
8-11-1974

JS(I) Sd/- 8-11-1974

Secretary

I have slightly touched the draft.

Sd/- K. K. Ray
8-11-1974.”

Shri K. K. Ray marked the file to the Minister of Law, Justice and Company Affairs from where the file found its way to the Prime Minister's Secretariat. Shri B. N. Tandon recorded the following note on the file :

“PRIME MINISTER'S SECRETARIAT

P.M. has seen. She thinks that a reply as in the draft (marked approved draft) enclosed should go to Shri Bosu. It is not necessary to enclose the statement as proposed by the Department of Company Affairs. The latest balance sheet is open for public inspection. Shri Bosu can obtain the required information by inspecting that document.

Sd/- B. N. Tandon,
Joint Secretary to the Prime Minister
11-11-1974.”

This shows that the information called for by Shri Jyotirmoy Bosu was communicated to him after the draft reply was shaped as suggested by the former Prime Minister.

Those who had been at any time Directors of Maruti Limited were asked to clarify certain points regarding the functioning of the company. Of them Shri C. B. Saran, Shri Jagdish Prasad, Shri B. C. Jindal, Shri M. A. Chidambaram, Shri Vidya Bhushan and Major Kapil Mohan have replied to the queries sent by the Commission. Shri Raunaq Singh, another Director, was examined as witness and he answered all the material questions in the course of his deposition. Shri Raunaq Singh also filed an affidavit before this Commission in October 1978 wherein he refers to an earlier affidavit sworn by him on July 2, 1977 which was filed with the Ministry of Home Affairs. A copy of this earlier affidavit has been brought on the record of the Commission. In his July affidavit Shri Raunaq Singh states how he came to be a director of Maruti Limited : “I was called by Shri R. K. Dhawan in his office and was requested to serve on the Board of Maruti Limited as according to him Mr. Sanjay Gandhi needed guidance of experienced entrepreneur in his new venture. I also accepted the appointment as a Director as I believed in all sincerity that Mr. Sanjay Gandhi was really a hard working dynamic technocrat who wished to produce a low priced car for the benefit of the middle class people”. Shri Raunaq Singh was then asked “to make some contributions towards share capital of Maruti Limited”. Accordingly one of Raunaq Singh's companies, namely, Bharat Steel Tubes Limited “purchased shares of Rs. 5 lacs in Maruti Limited”. About a year later he was “approached through Mr. R. K. Dhawan” to make an additional investment of about Rs. 25 lacs to which he pleaded his inability. “When I expressed my inability to make any further investment”, Raunaq Singh says, “I could smell a feeling of dissatisfaction I could visualise only later as to what could happen in the event of Mr. Sanjay Gandhi or Mr. R. K. Dhawan not being so happy with someone”. Shri R. K. Dhawan when he was trying to induce Raunaq Singh to contribute to Maruti's share capital, he was Personal Assistant to the former Prime Minister Shrimati Indira Gandhi. About the working of the company, Shri Raunaq Singh says : “I had a feeling that the Directors were consulted on formal business at the Board meetings only. No body could question Mr. Sanjay

Gandhi as he ran the organisation in the way he liked In fact the members of the Board were not consulted on any important company policy or details of any contract. All decisions were taken by Mr. Sanjay Gandhi as the Managing Director of the company".

Saran, Jagdish Prasad and Jindal were Directors only for a short time. Shri Saran ceased to be a Director on November 30, 1972. He says that he was not present at the meeting of the Board of Directors held on October 18, 1972 which approved the annual report of 1971-72 and the said report was not sent to him prior to October 18, 1972. As such, he says, he is not responsible for any mis-statement in the annual report of 1971-72. Shri Jagdish Prasad also says that he was not present at the meeting of the Board of Directors held on October 18, 1972 which approved the annual report of 1971-72 and that the report was not sent to him prior to October 18. Accordingly he says that he is not responsible for any incorrect statement that may have been made in the said report. Shri Jagdish Prasad ceased to be a Director on December 2, 1972. Shri Jindal's statement is that he attended very few meetings before he resigned on October 18, 1972. According to him his "contribution as Director was not purposeful because of lack of knowledge of the English language". He adds that at that stage he had "no basis to suspect the bonafides of Shri Sanjay Gandhi". Shri Jindal says that he was unaware of any part of the land of Maruti Limited being leased out to others and also of any space in the Maruti factory premises being "allowed for other uses".

Shri M. A. Chidambram was a Director from the inception of the company and subsequently made its Chairman. He resigned on May 17, 1977. According to Shri Chidambram, Shri Sanjay Gandhi who was appointed the Managing Director of Maruti Limited was "at all times" "fully in management and control of the affairs of the company". Briefly his stand is that the statements in the annual reports were made in good faith upon the information supplied by the Managing Director and responsible officers of the company which

he had no reason to doubt. He was not aware of the irregularities like leasing out the factory lands, or that an imported NSU engine was used in the prototype car that was sent to Ahmednagar for test. He had no knowledge of the failure to deposit in time the income tax deducted at source or to refund the dealers' deposits; these were, according to him, routine administrative matters for the officers of the company to deal with.

The statements of Shri Vidya Bhushan and Major Kapil Mohan are similar. Both of them were appointed Directors in 1973. Vidya Bhushan states that the statements in the annual reports were based on information supplied by the concerned officers which he accepted as true because there was no circumstance before him to justify a contrary opinion. Matters like failure to deposit in time the income tax deducted at source or refund of the share application money or the dealer's deposits did not come to his notice. These were part of the routine work of the executives of the company. He was also not aware that an imported NSU engine was fitted on the Maruti prototype car that was sent for test at Ahmednagar. Major Kapil Mohan's statement is exactly similar. Only he adds that "for all technical and other details of Maruti Limited", he relied on the information supplied to him by the officers of the company and also the Managing Director, Shri Vidya Bhushan does not mention the Managing Director. Both Shri Vidya Bhushan and Major Kapil Mohan assert that the Directors' Reports were intended for circulation to the existing shareholders and not to serve as a prospectus. The facts bearing on this aspect have already been discussed and need not be repeated, but a brief reference may be made to the evidence given by Shri Sitaram Singhania, President of J. K. Synthetics Limited, as to what induced him to buy Maruti shares for his company. After discussion with one of his friends, Shri Singhania thought it would be profitable to invest in Maruti, then he met Shri Sanjay Gandhi sometime between September and November 1974. Shri Gandhi gave him "a copy of the balance sheet", "pertaining to the year 1973-74", he "studied that balance sheet" and found that the prospects appeared to be very bright.

CHAPTER IV

The fifth item listed in the terms of reference of the Commission includes :

“All matters pertaining to the manner and method of selecting and appointing dealers and sales agents including the stipulation and collection of money from such dealers and agents and the accounting custody and utilisation of the money so collected”.

MARUTI LIMITED

Maruti Limited which was incorporated on June 4, 1971 started appointing dealers for the Maruti car from the year 1972, long before the company was granted a licence to manufacture cars which was in July 1974. On March 2, 1972 the Board of Directors of Maruti Limited passed a resolution delegating to Shri Sanjay Gandhi, Managing Director, the power to appoint selling and distribution agents for the products of the company, subject to Board's confirmation, on such terms and conditions as he might think fit and proper. The Minutes Book of the meetings of the Board of Directors does not disclose that Board's confirmation was obtained in any case. No guidelines were laid down by the Board for such appointments, no limit was fixed on the total number of dealers to be appointed, the territorial limits of the dealers were also not indicated. No standard or model terms for appointment of dealers were approved by the Board. The total number of dealers appointed till 1976, after which there was no further appointment, was approximately eighty throughout the country. Among them were persons without any experience in the automobile line, like paper merchants, food-grain merchants and nylon yarn dealers, who were made to deposit a sum which was not the same in every case, ranging between Rs. 3 lacs and Rs. 6 lacs. The amount appears to be excessive compared to what the dealers of other manufacturers of passenger cars had to pay. Shri P. N. Ghosh, Secretary, Rajiv Motors, Private Limited, New Delhi, who are dealers of Hindustan Motors, manufacturers of Ambassador cars, has told the Commission that Hindustan Motors charged only Rs. 5,000 from their dealers as security deposit and paid interest at 8 per cent on the deposit. Shri K. N. Menon, General Manager, Prem Nath Motors, Private Limited, New Delhi, who are dealers of Premier Automobiles, manufacturers of Fiat/Premier cars, has deposed that Premier Automobiles did not charge anything from them by way of security deposit or any other kind of deposit. According to Shri Menon it was the standard practice of Premier Automobiles not to take any security deposit from their dealers. Apart from the dealership deposits, Maruti Limited also accepted from the prospective dealers sums, called by the company dealership reservation money, which was a sort of

earnest money for allotment of dealership in future. From a typical dealership agreement between Maruti Limited and their dealers it appears that the sums paid by the dealers were security deposits but it was also provided that one third or one fourth of the deposit might be converted into equity share capital & that the balance of the deposit was to be adjusted at the rate of Rs. 500 per car allotted to the dealer. If the production of the car was delayed for six months beyond the expected date, the company was to pay to the dealers interest on the sum at the end of the period of six months at 10 or 10½ per cent per annum. It was stipulated that if the company desired to retain the amount upto Rs. 500 per car for a longer period it would pay interest at a higher rate on the retained amount. According to clause 18 of the dealership agreement, either party could terminate the agreement at any time without assigning any reason by giving not less than ninety days' notice in writing to the other of such termination. In the balance sheets for five years from 1971-72 to 1975-76, the dealership dispoits have been shown as follows :—

1971-72	Rs. nil
1972-73	Rs.1,64,10,900
1973-74	Rs.2,18,91,042*
1974-75	Rs.2,30,47,073*
1975-76	Rs.2,55,07,688*

(*which includes interest accrued)

Dealership reservation money has been shown in the books of accounts of Maruti Limited,

(i) As on 31-3-1975	Rs.27,67,000
(ii) As on 31-3-1976	Rs.21,80,000
(iii) As on 31-3-1977	Rs.20,63,000

Some of the dealers claimed that they were the sole selling agents within the meaning of section 294 of the Companies Act and alleged violation of the said provision by Maruti Limited. Part I, clause 1(b) of the Dealership Agreement provided that subject to the provisions of this Part and Parts III and IV of the Agreement, persons appointed as dealers of the company's products had “exclusive right” “to book as agent of the company from persons orders for direct sale of the motor vehicle by the company to such persons”. Part III of the Agreement stated that the “dealer shall be an agent only of the customer for the collection of the motor vehicle and shall not be deemed to be the agent of the company on any account in respect thereof”. Part IV of the Agreement bearing the heading “General Terms of Dealership” provided that “nothing in this Agreement shall in any way operate to constitute the Dealer an agent of the company in any respect and for any purpose whatsoever”. These stipulations read together suggest that the company

was not appointing sole selling agents within the meaning of section 294 of the Companies Act.

The dealers of Maruti Limited formed in May 1977 an association called the All India Maruti Dealers Association to protect their interest. Shri P. C. Aggarwal, Secretary of this Association, has deposed before the Commission. He says that many of the dealers were told that they would be appointed sole selling agents in respect of a particular area, but when the letter of appointment came it was found that they had been appointed just dealers.

The manner and method of appointing dealers may be stated. In some cases purchase of Maruti shares was made a pre-condition for the grant of dealership and the prospective dealers were made to buy the shares under threat. Shri J. P. Shaw, Miss Rita Shaw, Miss Rina Shaw and Shrimati Kum Kum Shaw, partners of a firm called M/s N. P. Shaw and Company in Baripada, Orissa, have each filed an affidavit affirmed on different dates in April 1978 to the effect that "as a condition for allotment of dealership of Maruti cars in Jamshedpur and Ranchi" Shri S. M. Rege, Secretary of Maruti Limited, "proposed to Shri J. P. Shaw to invest in equity shares to the tune of Rs. 50,000 in addition to the security deposit". Thereafter in two successive letters Shri Rege informed the deponents that "failure to purchase the shares may lead to cancellation of the dealership" and reminded them "that the company may resort to some drastic action due to non-fulfilment of the terms precedent to the award of dealership". It has been stated earlier that the dealership agreement contained a clause that one third or one fourth of the security deposit might be converted into equity shares. Shri Alam Ali Khan, Managing Director of a firm called Riffans Agencies at Hyderabad, has said that in addition to Rs. 3 lacs he paid as dealership deposit, he had to buy shares of Maruti Limited worth Rs. 25,000 because this was made a condition for the grant of dealership. The evidence of Shri Om Prakash Gupta of Hapur, District Gaziabad (U.P.), is that in addition to Rs. 3,50,000 his firm paid as security deposit, they had to buy Maruti shares of the value of Rs. 50,000. Some of the dealers who after waiting for a considerable time for the Maruti car to be delivered to them terminated their agency in terms of the dealership agreement and wanted refund of the money, were made to agree to let a part of the money due to them to be converted into equity shares. In an affidavit affirmed on September 30, 1977 Shri M. L. Bhayana, a partner of the firm Bhayana Motors, has said that they paid Rs. 3 lacs for an agency of the Maruti car at Ambala. When he found that the car was not available, he on behalf of the firm requested the Maruti Management to return the sum of Rs. 3 lacs they had deposited. According to Shri Bhayana the Management of Maruti Limited threatened to forfeit the entire sum unless they did not agree to the conversion of Rs. 1 lac out of this amount to equity shares of the company. The deponent says that "the Management of Maruti Limited being in power" they had to agree to the proposal. Shri Girdhar Lal Dodeja, a partner of a firm called Sindhu Paper Mart, Paper merchants,

deposited Rs. 1 lac as dealership reservation money on behalf of the firm. When they did not get a dealership, they demanded interest on the sum lying with the company. The Management of Maruti Limited warned them that they should not make any further demand and insisted that they purchase shares of the company. Shri Dodeja says "these shares were thrust on us", but as they "were under some kind of fear" they did not have the courage to tell the Maruti Management that they were not interested in Maruti shares. Shri Rattan Lal, a partner of M/s Vishal Motors of Chandigarh, paid Rs. 2,50,000 as dealership deposit. No car was, however, delivered to them for sale. He did not demand refund of the deposit and he states the reason as follows: "Because in the meanwhile we had come to know that one or two other dealers who had dared demand their deposit back were harassed and some of them were put under detention under MISA". Shri Om Prakash Gupta, to whom reference has already been made, had written to Maruti Limited asking for payment of interest as provided in the dealership agreement. When he met Shri Sanjay Gandhi and Shri S. M. Rege in this connection, he found both of them very angry with him. He was arrested under the Maintenance of Internal Security Act on May 16, 1974 and detained for about two months. He was ordered to be released by the Allahabad High Court on a *habeas corpus* petition.

To induce persons to accept dealership of the Maruti car, the Management of Maruti Limited held out assurances that the car would be on the road very soon. Shri P. C. Aggarwal, Secretary of the All India Maruti Dealers Association, says that to him and many other dealers Shri Sanjay Gandhi gave the assurance that the car would be delivered to them in April 1973. Shri Aggarwal says that but for this representation he would not have spent any money on the dealership of Maruti car. He says that he and some other dealers visited the Maruti factory premises several times but "did not see any activity as far as the manufacture of the car was concerned". Shri Rattan Lal, a partner of Vishal Motors, Chandigarh, came to know in August 1972 "that agency of Maruti car manufactured by Shri Sanjay Gandhi was available" and he met Shri Gandhi. Shri Gandhi told Rattan Lal that he could get an agency if he deposited Rs. 2.5 lacs with the company. Rattan Lal was assured that the agency for Chandigarh area would be granted to him and that the car would be available in April 1973. Rattan Lal says that he accepted the terms on Shri Sanjay Gandhi's assurance. The car was not made available within the promised time. Thereafter Maruti Limited went on assuring him from time to time that the car would be delivered to him shortly. He personally saw Shri Sanjay Gandhi in 1973 and Shri Gandhi told him that the car would be delivered within two months. Two months expired and the car was still not ready. Similar assurances were given to Rattan Lal every time he met Shri Gandhi thereafter. Rattan Lal says "I became conscious that no car would be made available to him, but out of sheer fear I did not dare tell him (Sanjay Gandhi) that I was already deceived".

Though the car was not made available to the dealers in spite of assurances, Shri Sanjay Gandhi asked them to get their show rooms ready and send their mechanics for training. Shri P. C. Aggarwal, Secretary of All India Maruti Dealers Association, says that some of the dealers had set up show rooms at various places but many had not done so and were watching the situation. In Shri Aggarwal's own words : "...the car was not coming but when we were asking him when the car would be coming, he would.....catch us on this weak point. Then, he will say that you make your show rooms, send your mechanics for training". According to Aggarwal there was no arrangement for training of the mechanics in the Maruti premises. Aggarwal's evidence is that the plan of the show room was to be approved by Maruti Limited, a workshop was also to be attached and it had to have a lot of space. According to him the dealers had to spend large sums of money setting up the show rooms. Rattan Lal has deposed that his firm had to hire a show room paying a rent of Rs. 1,800 per month in Sector 7, Chandigarh, from May 1973 because Sanjay Gandhi had represented that the car would be available for sale by April 1973. Shri N. K. Bhasin deposited a total sum of Rs. 2,50,000 for dealership by October 1972. He also made ready a show room at Lucknow in the best commercial area in October 1972 on the assurance from Shri Sanjay Gandhi that the car would be available for sale in January 1973. On a visit to the Maruti factory premises he found that the assurance was without any basis. Though the witness was not able to tell the exact amount he spent for the show room, he remembered that the cost of renovation only was about Rs. 20,000 apart from the other costs.

Industrial licence was granted to Maruti Limited in July 1974 and therefore there could be no justification for asking the dealers to keep their show rooms ready in 1972 and 1973.

Shri S. C. Aggarwal paid Rs. 6 lacs on behalf of his firm for agency of the Maruti car at Hissar and Gauhati. They spent Rs. 13,000 for buying a plot of land at Hansi in Hissar district in Haryana to set up a show room because Shri Sanjay Gandhi insisted that the dealer should have a show room and a garage before the car was delivered to them. One car was delivered to them on June 30, 1974, not for sale, but for exhibition in their show room. He tried to drive the car to Hansi where he had arranged a small function for the occasion. But the car broke down on the way and it took him about six hours to reach Hansi which was double the time a car should normally take. Ultimately the car had to be pushed to its destination. In June 1975 his firm sent a notice to Maruti Limited terminating the agency at Gauhati. When the witness next met Shri Sanjay Gandhi, Shri Gandhi threatened him by saying that he would go to jail for sending the notice. Shri Rege also told him that the consequences would be bad and the witness had to apologize to Shri Sanjay Gandhi by touching his feet. Shri Aggarwal complains that about Rs. 1 lac out of the money they had deposited was converted into Maruti shares uni-

laterally and the balance of the sum deposited was never returned to them. Another dealer Shri Daljit Singh converted his shop into a show room on the representation of Shri Sanjay Gandhi that the car would be available very soon. He was also given a car, for demonstration in his show room which he thought he would get free for the purpose but to his surprise he was charged Rs. 22,000 for the show-piece. He found the car defective, the brakes failed when he was driving the car and the clutch was also giving trouble. He sent the car to Maruti factory for repair. He did not get back either the car or the price he paid for it.

Some of the dealers of the Maruti car were compelled to be dealers of a gadget called the 'petrol saver'. Shri Om Prakash Gupta of Hapur in his affidavit affirmed on October 8, 1977 says that some of the Maruti dealers including himself were supplied with these petrol savers which were manufactured by a company of Bombay and of which Maruti Technical Services Private Limited was the sole selling agent. Shri Sanjay Gandhi was a Director of the Maruti Technical Services Private Limited which was really a family concern of the Gandhis. According to Shri Gupta Shri Sanjay Gandhi used to buy the petrol savers at Rs. 15 a piece and was forcing the dealers to pay Rs. 85 for it and the entire profit was being appropriated by Maruti Technical Services. The dealers were forced to buy stocks of petrol savers worth thousands of rupees but there was no demand for the article as it was really of no utility. The price was gradually reduced to Rs. 35 but the dealers did not get any refund. Later Maruti Technical Services started manufacturing the petrol savers. Shri P. C. Aggarwal, Secretary of the All India Maruti Dealers Association, has also something to say about the petrol savers. According to him, Shri Rege telephoned him some day in January 1974 and said "I have got some good news for you". When he met Rege the latter told him : "I am telling you very confidentially that the price of petrol is going to be increased very shortly and we have found an item called 'petrol saver'. If you become an agent of this, you will be making a lot of money". Shri Aggarwal says that he thought that Rege must be saying all this "on behalf of Mr. Sanjay Gandhi & he being the Prime Minister's son, they must be knowing the secret". Shri Aggarwal says that the price of petrol was raised in March 1974. As stated in Shri Gupta's affidavit the price of the petrol saver had to be brought down from Rs. 85 to Rs. 35 a piece when it was found that there was no demand for the article. When the dealers asked for refund of the difference, nothing was paid to them and Shri Sanjay Gandhi suggested that they should take more petrol savers instead. Shri Aggarwal adds that petrol savers worth a lac of rupees are lying with him.

It appears that late L. N. Mishra who was then a Union Cabinet Minister was also trying to get dealers for Maruti Limited. Shri S. K. Tulshan of New Delhi says that at the instance of Shri L. N. Mishra he had deposited Rs. 25,000 with Maruti Limited. He says further that the members of his family were connected with different companies and one of them was Darshan Distributors Private Limited. Being asked by L. N. Mishra, Darshan Distributors deposited with

Maruti Limited a sum of Rs. 3,75,000. This sum was treated in the books of Maruti Limited as dealership reservation money.

It appears that Shri Rege, Secretary of Maruti Limited, issued several letters to the dealers from 1972 to 1975 making promises which were not fulfilled. The nature of the promises will appear from the extracts given below :

(a) *Letter dated September 19, 1972*

"The cars will be delivered to the dealers for show-rooms in the beginning of 1973 and booking will start subsequently".

(b) *Letter dated October 3, 1972*

"According to our forecast the prototype should be approved by the end of this month".

(c) *Letter dated October 19, 1972*

"The booking of the car may be started from February 1973".

(d) *Letter dated December 6, 1972*

"Dealers will commence booking for cars from February 1973 onwards".

(e) *Letter dated December 18, 1972*

"We shall provide the vehicle for show-room demonstration towards the end of January or early February 1973".

(f) *Letter dated January 22, 1973*

"The exact date for booking has still not been decided but it may be sometimes in March 1973".

(g) *Letter dated March 30, 1973*

"The car for show-room demonstration will be supplied to the dealers before the commencement of bookings which is likely to start in May 1973".

(h) *Letter dated November 30, 1973*

"The car for show-room demonstration will be supplied in early 1974 and commercial production will start towards June 1974".

(i) *Letter dated March 23, 1974*

"We are proud and glad to inform you that your MARUTI has passed all the tests and after satisfying its roadworthiness and the performance to the Vehicles Research and Development Establishment authorities the vehicle has been finally passed by the VRDE".

(j) *Letter dated August 8, 1974*

"We are now making necessary arrangements for the supply of cars for show-room demonstration to our dealers".

(k) *Letter dated April 5, 1975*

"You will be pleased to learn that to start with we are releasing Maruti car for show-room demonstration in Delhi by the end of this month. Our other esteemed dealers will not have to wait for a very long time as we intend to allot them also one car each in shortest possible time".

The subsequent promises proved the earlier ones untrue and the last of them also remained unfulfilled.

Incorrect representations about the progress of the car project were made through the annual reports of Maruti Limited, the intention must have been to beguile people into investing in Maruti, induce prospective dealers to make deposits and prevent the existing dealers from cancelling their agreements and ask for refund of their deposits. The nature of the representations made in the annual reports was as follows :

Annual Report for the year 1971-72

It was stated :

(a) "A few cars are being made available to the Government for approval in regard to its roadworthiness".

(b) "The company plans to produce 10,000 cars in 1973".

(c) "Negotiations with some dealers have already been finalised and efforts are being made to appoint further dealers of good repute".

But in 1971-72 a prototype car based on indigenous know-how and produced without using imported components was yet to be developed and arrangements for finance and supply of car components had not been finalised, the factory building was not complete and the installed plant and machinery as on March 31, 1972 was not adequate for mass production of 10,000 cars in 1973. Schedule B of the Annual Report for 1971-72 as on March 31, 1972 shows :—

Licensed capacity	Installed capacity
Not applicable	Indeterminate as only a portion of plant and machinery is installed".

The statement about selling arrangements through dealers is also misleading as the commercial model of the car was still not ready even for display.

Annual Report for the year 1972-73

This claims that the engine of the car "has been fully developed and is undergoing rigorous tests with successful and promising results".

In 1972-73 the prototype was not yet ready for testing by VRDE and it could not therefore be said that the engine had been fully developed. In fact an imported NSU engine was utilised for the prototype car sent subsequently to VRDE for tests.

Annual Report for the year 1973-74

It says that the VRDE has passed the prototype car as roadworthy and that the Government had converted the letter of intent into an industrial licence and with the issue of licence the company had "crossed the last hurdle".

By the end of March 1974 no decision had been taken by any authority that the prototype was roadworthy. The letter of intent was converted into an industrial licence later, in July 1974. The public financial institutions had not given approval to the company's scheme of finance and therefore it was not correct to say that the company had crossed the last hurdle.

Annual Report for the year 1974-75

The report claims that during the year concerned "it was possible to start the manufacture of Maruti cars on a moderate basis" and that the car had "shown very good performance" on plain roads as also at high altitudes and was "liked and welcomed by all". During the year there was no production of cars at all, not even on moderate basis, as would appear from Schedule X of the Annual Report as on March 31, 1975 wherein the actual production is shown as "nil—work being in progress, only some spare parts/components/dies were produced on part of the installed machinery". The licensed and installed capacity were shown as :

<i>Licensed capacity</i>	<i>Installed capacity</i>
50,000 motor cars per annum	Indeterminate as only a portion of the plant and machinery is installed.

As for the claim of good performance, the experience of S. C. Aggarwal and Daljit Singh has already been narrated.

Annual Report for the year 1975-76

It is said that due to recession in the automobile industry the "production was maintained at a very low rate" and a few cars were sold. The car had "shown good results" and was "very well received by the general public".

Schedule X of the Annual Report shows that the annual production was 21 cars only while the project visualized a production level of 50,000 cars a year. The recession in the industry occurred in 1973-74 due to petrol price hike. The failure to launch mass production cannot therefore be attributable to recession. The real reason seems to be the failure to develop a suitable commercial model of the car and the rejection of the company's financial scheme by the public financial institutions. The statement that the car had shown good results and was well received by the public does not also seem to have any basis.

From the dealership registers of Maruti Limited and the bank accounts of the Maruti concerns it appears that the sums received by way of dealership deposits were entered in the cash book and the

dealership deposit register or the dealership reservation money register of Maruti Limited and thereafter the moneys were sent to the different banks—Safdarjang Enclave and Mullahera branches of the Central Bank of India and Parliament Street branch of the Punjab National Bank. The Managing Director authorised disbursements from the banks.

Part IV, Clause 16 of the dealership agreement indicates that the dealership deposit was a security deposit for the due performance of the terms and conditions of the agreement by the dealer. The terms governing the security deposit are set out in annexure B to the agreement. The terms mention *inter alia* that the company would refund to the dealer a sum of Rs. 500 with each car allotted to the dealer out of the amount in deposit. It also provides that if the production was delayed by six months beyond the date when the production was expected to start, the company would pay interest on the amount of deposit from the end of such period of six months at 10 per cent or 10½ per cent. If the company desired to retain the amount upto Rs. 500 per car for a longer period it would pay interest at a higher rate on the retained amount. Clause 18(a) permits either party to the agreement to terminate the agreement at any time without assigning any reason by giving not less than ninety days notice in writing to the other party. Under clause 19(d) upon the termination of the agreement the security deposit is to be returned to the dealer. The dealership deposits were not invested separately either in fixed deposit or in government securities. The deposits were pooled with other cash incomes and used as working capital. This appears from the statement of Shri J. K. Pahuja, Manager, Finance and Credit, Maruti Limited. Shri Rege, Secretary of the company, in his statement has said that he was not sure as to what should have been the proper mode of custody of the dealership deposits. Shri P. C. Aggarwal, Secretary of the All India Maruti Dealers Association, says that many of the dealers who terminated their agreements when they found that the car was not forthcoming, did not get their money back and some of them who demanded refund were threatened and made to apologise. In his own case he terminated his agency in 1974 and served a notice on the company on June 19, 1975 that if his money was not refunded he would "take the company to liquidation". Shri Sanjay Gandhi on receipt of the notice summoned the witness and made him apologise. The experience of Shri Om Prakash Gupta of Hapur has been described already. I have also mentioned that Shri Rattan Lal and Shri Daljit Singh, two other dealers, who having terminated their agreements did not dare ask for return of their money after they came to know of the harassment of those who had demanded refund. Shri Anil Kumar Gupta, a partner of Dell Motors, Niti Bagh, New Delhi, paid Rs. 2.5 lacs as dealership deposit in 1972 on the assurance given by Shri Sanjay Gandhi that the car would be ready in January 1973. When the car was not available even in 1974 he cancelled the agency on November 15, 1974. The money he deposited was not refunded to him but he got interest for six months from October 1, 1973 to March 31, 1974 at the rate of ten and a half per cent per annum.

He did not institute any legal proceedings for recovery of the money. He says that had it been "any one else than Sanjay Gandhi then we would have proceeded against that party". Shri Alim Ali Khan, another dealer, also says that he did not file a suit for recovery of his money because "the political conditions were such that to file a suit against Mr. Sanjay Gandhi was not proper" and that it would have been "inviting trouble". The story of Shri Chander Bhan Gupta of Bhatinda is as follows : Shri Chander Bhan met Shri Sanjay Gandhi at the office of Maruti Limited and had discussion with him. According to Chander Bhan Sanjay Gandhi asked him to make an application for purchase of shares of Maruti Limited and assured him that shares would be allotted to him after he paid the money. On April 10, 1974 Chander Bhan paid a sum of Rs. 1,50,000 to Maruti Limited and different sums on different dates in 1974 and 1975. He paid in all a sum of Rs. 11,95,000. In 1974 the Income-tax authorities sought to recover a sum of Rs. 9,67,777 by attachment of his property. He requested Maruti Limited to deduct the amount attached by the tax authorities from the sum he had deposited and return to him the balance. He was told that the money would not be refunded but it was suggested to him that if he chose he might keep Rs. 2 lacs in deposit for dealership rights of the Maruti car and Rs. 1,75,000 as the price of the shares to be allotted to him and let the balance, Rs. 8,20,000, remain with the company as fixed deposit for three years. The witness accepted the proposal. In January 1976 he asked for payment of the interest due on his deposit which came to some figure between Rs. 1,50,000 and Rs. 1,75,000. He also went and saw Shri Sanjay Gandhi personally at the office of Maruti Limited, Gurgaon, for this purpose. According to him Shri Sanjay Gandhi brought him to No. 1, Sardarjag Road in his car and after a long wait he was interviewed by Shri R. K. Dhawan, Additional Private Secretary to the former Prime Minister, who told him that he would be arrested under the Maintenance of Internal Security Act if he kept on demanding money. Chander Bhan says that he felt scared and came away and since then he had not made any further demand. He adds however that he wrote to the Income Tax authorities "that whatever is due from me may be recovered from the Maruti Limited of which I am the creditor".

Shri Raunaq Singh, a Director of Maruti Limited who deposed before the Commission said that it was not within his knowledge that some of the dealers who had cancelled their agencies were not being refunded their money.

Shri Pahuja, Manager, Finance and Credit, in his statement has mentioned only six cases where no refund was given in spite of the cancellation of the dealership granted to them. The cases admitted by Pahuja are :

Sl. No.	Name & Address	Amount (in Rupees)
1.	M/s. Dell Motors, C/o Shri Anil Kumar Gupta, 22, Barakhamba Road, New Delhi.	2,50,000

Sl. No.	Name & Address	Amount (in Rupees)
2.	M/s Faridabad Automobiles, Neelam Cinema Building, Faridabad.	1,00,000
3.	M/s Sanjay Automobiles, C/o Allied Automobiles, Model Basti, Near Filmistan, New Delhi-5.	2,50,000
4.	M/s Malwa Motors, C/o Lala Inder Chand Hari Ram Mittal, 3, Bajaj Khanna Chowk, Indore.	3,00,000
5.	Shri A. K. Sagar, Movellamundivari Street, Suryarappet, Vijayawada (A.P.).	50,000
6.	M/s Vasant Rao, Yashwant Rao.	10,000

In terms of the agreement with the dealers Maruti Limited was under an obligation to pay interest on the deposits. This matter was being handled by Shri Sanjay Gandhi. Raunaq Singh says that he was not aware whether interest was being paid regularly to dealers or not. P. C. Aggarwal says that out of seven instalments due to the dealers, they were paid only one instalment of interest for six months in January/February 1977 and that also not to all the dealers. According to Aggarwal he did not get even one instalment. Pattan Lal also says that he was not paid any interest in spite of demand. Om Prakash Gupta of Hapur pleaded with Shri Sanjay Gandhi that he was entitled to interest from April 1973 in accordance with the agreement and to convince Shri Gandhi he handed over the agreement to Shri Gandhi. Shri Gandhi gave it to a member of his staff who took it away and after some time came back with the agreement. When the agreement was returned to Shri Gupta he found that some changes had been made in the agreement as regards the date from which he was entitled to claim interest. Shri Pahuja admits that certain dealers who were entitled to interest for three years were paid only for one and a half years instead of three.

It has been found earlier that the dealership deposits were being utilised as working capital by the company. From the account of Maruti Limited with the Central Bank of India, Safdarjang Enclave Branch, New Delhi, a sum of Rs. 5 lacs appears to have been transferred by cheque drawn on July 22, 1972 to the account of Maruti Technical Services Private Limited with the First National City Bank, Parliament Street, New Delhi. The said cheque dated July 22, was encashed on August 28, 1972. This sum was transferred to Maruti Technical Services Private Limited in terms of an agreement between them and Maruti Limited. What is relevant in this context is that on July 22, when the cheque was issued by Maruti Limited, the bank balance of Maruti Limited

with the Central Bank of India, New Delhi, was Rs. 2,37,350.74 p., with the Central Bank of India, Mullahera, it was Rs. 75,217.88 p., and with the Punjab National Bank, New Delhi, it was Rs. 44,126.21 p. The total was short of Rs. 5 lacs. Between July 22 and August 28 Maruti Limited received a number of deposits from the dealers which made encashment of the cheque possible. Some of the parties from whom deposits were received during this period were, Bombay Engineering Corporation who deposited Rs. 1 lac on July 31, M/s. Ifikar Motors—Rs. 75,000 on August 1 and another deposit of Rs. 75,000 on August 21; Swadesh Motors—Rs. 75,000 on August 4; Jaswant Singh and Sons—Rs. 1,25,000 on August 9; and Syane Dasani—Rs. 1,00,005 on August 21. Even before July 22 when the cheque was drawn, deposits from dealers constituted a large part of the company's bank balance as would appear from the evidence of Shri P. R. Shashidharan, Accounts Officer of Maruti Limited. From the statement of affairs of Maruti Limited as on July 22, 1977 signed by Major Kapil Mohan, Director of Maruti Limited, which was produced before the Punjab & Haryana High Court by the Official Liquidator, Shri Pahuja pointed out the sources of the company's funds and how they were utilised. The position indicated was as follows :

"Source of Funds taken as on July 22, 1977 from the Statement of Affairs after making adjustments of non-cash items.

	(Approx. figures in lacs Rs.)
(i) Share capital	300.00
(ii) Share Application Money	26.59
(iii) Secured Loans	119.96
(iv) Unsecured loans	63.66
(v) Dealership Deposits	239.57
(vi) Other liabilities including Sundry Creditors etc.	80.27
	<u>830.05</u>

Utilisation of funds taken as on July 22, 1977 from the Statement of Affairs after making adjustments of non-cash items.

(i) Buildings	384.79
(ii) Plant, machinery and equipments	164.49
(iii) Other assets including vehicles and furniture etc.	11.58
(iv) Raw material, components, work-in progress and other stocks	36.02
(v) Sundry debtors, advances and bank balances	94.32
(vi) Expenditure on prototype, preliminary and preincorporation etc.	58.35
(vii) Aggregate expenses during all the years being balancing figures	80.50
	<u>830.05"</u>

This statement indicates that at least a part of the dealership deposits was utilised in the construction of buildings and for the purchase of plant, machinery and equipments. This may be a reason why Maruti Limited was unable to refund to the dealers who had terminated their agencies the deposits they had made and the interest that was due to them.

The dealers of Maruti Limited formed an association in May 1977 to protect their interest. According to Shri P. C. Aggarwal, Secretary of this Association, after the last General Elections held in March 1977 when all chances of the Maruti car coming into the market had vanished, Shri Sanjay Gandhi began to take away the goods lying in the Maruti factory premises and by May 1977 he had removed goods of the approximate value of Rs. 17 lacs. Saini Motors of Ludhiana and several other dealers have filed affidavits making similar allegations.

MARUTI TECHNICAL SERVICES PRIVATE LIMITED

The Balance-sheet of Maruti Technical Services Private Limited as on September 30, 1974 shows a sum of Rs. 4,65,000 as dealership deposit. The names of the dealers and the amounts deposited by them as appearing from the Balance-sheet are as follows :

S.No.	Name & address	Amount (Rupees)
1.	Rainbow Industries Corporation, Muzaffarnagar	2,00,000
2.	M/s Dayagen, M-13, Connaught Circus, New Delhi	1,00,000
3.	C.L. Jaipuria, 8, Prithvi Raj Road, New Delhi	60,000
4.	A.P.S. Arora, D-106, Curzon Road, New Delhi	40,000
5.	M/S Nu Techphotolithographers, 4759, 11/23, Darya Ganj, Delhi	25,000
6.	Allied Enterprises, Ansari Road, Delhi	25,000
7.	Kilrain Engg. (P) Ltd., 16/5, Mathura Road, Faridabad	15,000
		<u>4,65,000</u>

The deposits were received from these seven parties for giving them agency of Maruti Petrol Savers when Maruti Technical Services themselves started manufacturing the Petrol Savers. It appears from the books of account that only some of them were refunded the deposits they had made on termination of their agencies. Of these seven parties, Shri S. N. P. Punj representing M/s. Dayagen and Shri A. P. S. Arora were examined as witnesses. Shri Punj paid Rs. 1 lac for M/s. Dayagen on December 3, 1973. M/s. Dayagen had dealings with the Government for supply of air conditioners through Directorate General, Supplies and Disposals. According to Shri Punj his younger brother who had known Shri Sanjay Gandhi for many years told him that Shri Gandhi needed Rs. 1 lac as loan and the sum of Rs. 1 lac was paid as short term loan for about six months without any interest. Shri Punj says that a pronote was also sent with the money with the idea that Shri Gandhi would sign and return it, but he did not. In the books of account of Dayagen the entry made was "To cheque issued in your favour as loan as against pronote". The money was not returned after six months. In the Income Tax Return of the firm this loan was shown against Sundry Debtors. It appears that in response to a notice under section 142 of the Income Tax Act Shri Gandhi made a statement before the Income Tax Officer giving the full particulars of the dealers of Maruti Technical Services Private Limited and the amount received from them till September 30, 1974.

In this statement the name of M/s. Dayagen was shown as a dealer and the amount of Rs. 1 lac as dealership deposit. Shri Punj states that the money was repaid in September 1977 when a claim for the amount would have been barred in a court of law. It is a little surprising that a businessman would let one lac of rupees to be retained by his debtor for over three years without claiming any interest.

Shri Arora's case is also a little peculiar. He says that he approached Maruti Technical Services Private Limited for grant of dealership rights of Maruti Petrol Savers in 1974. Maruti Technical Services had not then started manufacturing petrol savers but were planning to do so. Arora says that he read about the petrol savers in newspapers. He was asked to make a deposit of Rs. 40,000 which he did by a cheque in February 1974. He did not know the name of the gentleman with whom he had a discussion about the dealership of petrol savers. He did not get a dealership for the area he chose which was Chandigarh; the management of Maruti Technical Services Private Limited told him that negotiations had been going on with some other party for the dealership in Chandigarh. The witness was not interested in any other place but he told the management of the company to retain the deposit with them till he made up his mind. Ultimately the money was refunded to him on September 27, 1977 more than three years later without any interest. This also seems unusual conduct for a businessman.

MARUTI HEAVY VEHICLES PRIVATE LIMITED

Maruti Heavy Vehicles Private Limited was incorporated on February 22, 1974. From the facts stated in the previous chapter, it would appear that this company commenced business even before its incorporation. According to Shri P. C. Aggarwal, Shri Sanjay Gandhi tried to induce the Maruti car dealers to become dealers of Maruti Heavy Vehicles Private Limited for the sale of their road rollers, but without success.

SUMMARY OF SPECIAL FEATURES

From the evidence discussed it appears that attempts were made to attract prospective dealers and induce the existing dealers not to cancel their dealership agreements by promises of early delivery of the Maruti car. Late L. N. Mishra, when Union Cabinet Minister, also tried to get dealers to buy the Maruti car. The Board of Directors of Maruti Limited left it to Shri Sanjay Gandhi to appoint dealers on such terms and conditions as he might think proper. To create an impression that the Maruti car in the market was in short supply, Shri Sanjay Gandhi insisted on the dealers to keep their show-rooms open in 1972 and 1973, while spending large sums of money for the Maruti car. Maruti Limited was granted industrial licence in January 1974 and therefore there was hardly any justification for asking the dealers to keep their show-rooms open in 1972 or

1973. Two of the dealers who were given a car each to exhibit in their show-rooms have narrated their respective experience; one had to push the car to his show-room, and the other who returned the car to the Maruti garage for repairs following a brake failure while he was driving, did not get back either the car or the money (Rs. 22,000) he had paid for it. The dealers have given evidence as to how they were treated by the Maruti management. Some who applied for dealership of the Maruti car were made to buy shares of Maruti Limited as a pre-condition under threat. Some of the dealers who terminated their agencies when they found that the car was not available, were made to agree to the conversion of a part of the deposit they had made into Maruti shares. They yielded without raising objection because of fear. One of them said that "the management of Maruti Limited being in power" they had to agree to the proposal. The reference is obviously to Shri Sanjay Gandhi and the suggestion is that he was powerful being a son of the Prime Minister. Another said that "these shares were thrust" on them and that as they "were under some kind of fear", they did not have the courage to tell the management of Maruti Limited that they were not interested in the shares. And the fear was real. One of the dealers, S. C. Aggarwal who terminated his agency was threatened by Shri Gandhi that he would be sent to jail and Aggarwal had to apologise to him by touching his feet. Om Prakash Gupta of Hapur who had asked for payment of interest due to him on his deposit was arrested under the Maintenance of Internal Security Act. Shri Chander Bhan Gupta of Bhatinda who also demanded the interest due to him was told by Shri R. K. Dhawan, Additional Private Secretary to the former Prime Minister, that he would be arrested under the MISA if he kept on demanding money. Many did not ask for refund of their deposits or payment of due interest when they came to know of the harassment of those who did. There are only two who appear to have paid some money to one of the Maruti concerns and were not keen on getting it back. One of them, S. N. P. Punj of M/s. Dayagen, New Delhi, claims to have paid Shri Sanjay Gandhi Rs. 1 lac by way of a short term loan for six months. But the amount was treated as dealership deposit in the books of Maruti Technical Services Private Limited of which Shri Sanjay Gandhi Arora who deposited Rs. 40,000 for dealership rights of Maruti Petrol Savers. He did not get the dealership and yet he asked the company to retain the money till he made up his mind, which he failed to do in the next three years. In both cases the money was returned but without interest and after the expiry of the period of limitation for the institution of a suit for recovery of the sum. The conduct of both Shri Punj and Shri Arora would strike one as quite unusual for a businessman. What seems likely is that there was more in these transactions than what has been told. Some of the dealers of the Maruti car were forced to buy petrol savers worth thousands of rupees at a considerable loss to themselves but which earned large profits for Maruti Technical Services Private Limited.

CHAPTER V

This chapter deals with the sixth topic mentioned in the terms of reference which covers :

"All matters pertaining to the agreement entered into by any of the said [Maruti] concerns with any other Maruti concern, or with any other individual, firm, or body corporate, the extent to which these agreements resulted in diverting funds from one to the other for the pecuniary benefit of these concerns or the persons connected with the affairs of these concerns, the justifiability of such agreements and the extent of performance and proper implementation of these agreements".

The agreements relevant for the present purpose are the following :

- (1) Agreement dated 21-11-1970 between Shri Sanjay Gandhi and Maruti Technical Services Private Limited.
- (2) Agreement dated 2-6-1972 between Maruti Technical Services Private Limited and Maruti Limited.
- (3) Agreement dated 25-1-1973 and supplemental agreement dated 17-11-1973 between Shri Sanjay Gandhi and Maruti Limited.
- (4) Agreement dated 26-2-1973 between Shrimati Sonia Gandhi and Maruti Technical Services Private Limited.
- (5) Agreement dated 28-9-1974 between Shrimati Sonia Gandhi and Maruti Heavy Vehicles Private Limited.
- (6) Agreement dated 1-4-1975 between Maruti Technical Services Private Limited and Maruti Heavy Vehicles Private Limited.

Agreement dated 21-11-1970 between Shri Sanjay Gandhi and Maruti Technical Services Private Limited : It may be recalled that in his application made on December 11, 1968 for a licence for the establishment of a new industrial undertaking to manufacture motor cars, Shri Sanjay Gandhi had stated that the undertaking was to be a public limited company named 'Maruti Limited'. Before Maruti Limited was incorporated on June 4, 1971, a private limited company, called Maruti Technical Services Private Limited, was brought into existence on November 16, 1970. The authorised share capital of Maruti Technical Services, is Rs. 5 lacs divided into 50,000 equity shares of Rs. 10 each. On November 16, 1970 Shri Sanjay Gandhi and Shrimati Sonia Gandhi, wife of Sanjay Gandhi's elder brother Rajiv Gandhi, who were named as the first and permanent directors in Article 7 of

the Articles of Association of the company, held between them twenty equity shares of Rs. 10 each. This was also the financial position of the company on November 21, 1970 when Shri Sanjay Gandhi entered into an agreement with Maruti Technical Services Private Limited under which Sanjay Gandhi agreed to render technical know-how to the company for a consideration of Rs. 3 lacs. It is stated in the agreement that Sanjay Gandhi had "designed, manufactured and assembled in India a wholly indigenous motor car" and that he offered and the company accepted "an option to purchase" the technical know-how acquired by him on the terms and conditions mentioned in the agreement. The agreement defines 'technical know-how' to mean "the existing information, method, design, drawing, material and part specifications, technical documentation including drawings/specifications of required special tools, jigs and fixtures, dies, patterns, core boxes, process sheets, times sheets, calculations, test specifications and records and operating and maintenance manual etc. in possession of the Designer relating to design, fabrication, manufacture, assembly, operation and maintenance of the motor car". The option was exercisable by the company by paying Shri Sanjay Gandhi Rs. 3 lacs within 24 months of the date of the execution of the agreement. It was provided that "forthwith upon the company exercising its option as aforesaid" Shri Gandhi was to "deliver to the company the technical know-how in his possession". On the date the agreement was executed, the paid-up capital of Maruti Technical Services was Rs. 200 as already stated. On December 15, 1971, 1500 equity shares of Rs. 10 each fully paid-up were allotted to Shri Sanjay Gandhi. On June 2, 1972 an agreement was executed between Maruti Technical Services Private Limited and Maruti Limited according to which Maruti Technical Services was to provide Technical know-how to Maruti Limited, and Maruti Limited was to pay in return Rs. 5 lacs in lump sum to Maruti Technical Services. I shall refer to the agreement between Maruti Limited and Maruti Technical Services Private Limited in more detail later in this chapter, it is sufficient to state here that in terms of that agreement Maruti Limited paid to Maruti Technical Services a sum of Rs. 5 lacs on July 22, 1972. Out of this sum, Maruti Technical Services paid Shri Sanjay Gandhi Rs. 3 lacs on January 13, 1973 exercising its option to purchase technical know-how from him, the stipulated period for exercising the option had then expired. Thus it was only after money was available from the funds of the public company that Maruti Technical Services Private Limited of which Sanjay Gandhi was one of the two directors, was able to pay Sanjay Gandhi, the technical expert, the price for the know-how he offered to sell.

According to the agreement between Maruti Technical Services and Sanjay Gandhi, "forthwith" upon

the company paying Rs. 3 lacs to Sanjay Gandhi, Shri Gandhi was to deliver to the company the technical know-how in his possession. There is nothing on record to show that Sanjay Gandhi delivered any technical know-how on receiving Rs. 3 lacs. Witnesses examined on this aspect of the matter have said that Shri Sanjay Gandhi did not really possess any technical know-how that he could transfer. The letter this Commission has received from Rolls Royce Motors of England may be recalled. Shri Sanjay Gandhi was with Rolls Royce Motors as special student apprentice for about three years and received an Ordinary National Certificate in mechanical engineering which "was a relatively minor qualification". Shri Gandhi did not complete the special student apprenticeship. Retired Wing Commander R. H. Chawdhry, Chief Executive of Maruti Limited, was examined by the Commission. According to Shri Chawdhry, Sanjay Gandhi "had a very good I.Q. and a very sharp grasp of technical matters but had no practical experience" in the field of car manufacture. Referring to the definition of technical know-how in the agreement between Sanjay Gandhi and Maruti Technical Services, Chawdhry says, "none of the items constituting technical know-how e.g. method, design, drawings, materials and part specifications, technical documentation including drawings, specifications of required special tools, jigs and fixtures, dies etc. etc. could have been available at that date as those were not even ready in their totality as on 17th May, 1977, the date from which Sanjay Gandhi stopped going to the factory". Shri Chawdhry has said that till the last the design of the engine had not been finalised and that the results proved that Sanjay Gandhi did not have at his disposal a ready made technical know-how in regard to a definite engine design which he could transfer to Maruti Technical Services.

W. H. F. Muller, the German technician on the staff of the Maruti Technical Services had made certain statements under section 131 of the Income Tax Act, 1961 on January 23 and February 3, 1978. Copies of these statements have been brought on the record of this Commission. To a question of the Income Tax Officer about Shri Sanjay Gandhi's contribution to the technical side of the car project, Muller's answer was that it was "actually a set of drawings, incomplete set, in respect of the car he had built". According to Muller what Shri Sanjay Gandhi sold to Maruti Technical Services was "the basic concept of a product he had in mind" and that the end product of Muller's collaboration with Maruti Technical Services was "a prototype capable of being produced, approximately 80% completed, not including the engine". No car was finally manufactured, "what actually was produced were a few prototypes hand-made". The Income Tax Officer asked him. "...it is said that some Maruti cars are running on roads. Have you got any idea about this"? Muller's answer was: "these cars were given out to certain people. In all about 10 or 12—these are all prototypes, not the same in design etc. They are different from one another. They were changed several times. Engines were modifications of Sun Beam which were also prototypes, made in Maruti Limited. These Sun Beams machines were fabricated (purchased in parts) in Maruti". Muller stated further

that "it would be an exaggeration to say that a workable plan or model existed" at the time he joined Maruti Technical Services. The vehicles he then saw were not prototypes suited for production. In Muller's opinion, it was clear that Sanjay Gandhi would not be able to "provide a feasible working prototype, nor the planning required".

The facts stated above show that Shri Sanjay Gandhi had no technical know-how or expertise which he could sell. Though the agreement required him forthwith on receiving the sum of Rs. 3 lacs to deliver to Maruti Technical Services the technical know-how in his possession, nothing in fact was delivered, because there was nothing really to deliver. *Agreement dated 2-6-1972 between Maruti Limited and Maruti Technical Services Private Limited*: On June 2, 1972 an agreement was executed between Maruti Limited and Maruti Technical Services Private Limited which was signed on behalf of Maruti Limited by Col. V. R. Mohan and Shri Sudhir Kapadia, Directors of the company, and for the private company by its two Directors Shri Sanjay Gandhi and Shrimati Sonia Gandhi. The execution of the agreement was approved in the meeting of the Board of Directors of Maruti Limited held on May 30, 1972 and a special resolution of the shareholders was passed in an extraordinary general meeting on June 29, 1972. Shri Raunag Singh, a director of Maruti Limited from September 21, 1971 to May 10, 1977 has told the Commission that this agreement between Sanjay Gandhi and Maruti Technical Services was never brought to the notice of the Board of Directors of Maruti Limited.

This agreement between Maruti Limited and Maruti Technical Services describes Maruti Limited as "the manufacturing company" and Maruti Technical Services Private Limited as "the technical company" and states that the technical company "has capability of imparting technical know-how for the design, manufacture and assembly in India of a wholly indigenous motor car" and the manufacturing company has accepted the offer of the technical company "to acquire on licence basis the said know-how from the technical company". The manufacturing company was to make an initial lump sum payment of Rs. 5 lacs to the technical company for providing technical know-how and also to pay an annual technical fee of 2 per cent on the net sales of the motor cars from "the effective date of the agreement" subject to a minimum of Rs. 2.50 lacs for each accounting year of the manufacturing company. The "effective date of this agreement" has been defined as the "date on which the manufacturing company shall make payment to the technical company of the initial lump sum payment of Rs. 5,00,000 (Rupees five lacs only)". Under the agreement the technical company was to provide technical know-how "on a continuous basis". By this was meant that on receipt of the initial lump sum payment, the technical company was to deliver to the manufacturing company the technical know-how "for the design, manufacture and assembly in India of the motor car" and that on "procuring or developing any improvement or modification in the technical know-how" "inform the manufacturing company of such improvement and/or modification, as the case may be". Under the agreement the manufacturing company was

also to re-imburse the technical company for the "actuals involved". "Actuals" has been explained to mean "actual disbursements and expenses incurred and/or liable to be paid by the technical company for or in connection with the provision of the technical assistance". This was to include all printing and publishing expenses, travelling expenses, other out of pocket expenses etc.

Shri R. H. Chawdhry has said that the technical staff employed by Maruti Technical Services were "very young and inexperienced in the field" and the company had no qualified graduate engineer for design work on their rolls. W.H.F. Muller, the German technician employed by Maruti Technical Services Private Limited, was a specialist in car body welding. As for equipment, Maruti Technical Services had only a few drawing boards and the rest of the plant and machinery and the drawing boards belonged to Maruti Limited. Shri Chawdhry adds that no final car design had been made for mass production. "Whatever was produced had been subjected to thousands of changes rendering earlier achievements completely obsolete" as there was no fixed and finalised design of the vehicles. "The necessary data was produced, changed and condemned as we went on manufacturing and remanufacturing the parts and components". Shri Chawdhry states that Maruti Technical Services "was not in a position to give anything readily available to Maruti Limited". "No research or development work facility was available with M/s. Maruti Technical Services (Pvt.) Ltd. as long as I was associated with Maruti Limited", says Chawdhry.

In his affidavit affirmed on December 16, 1977 and filed before this Commission, W.H.F. Muller corroborates Chawdhry that "no research or development work was being carried out by M/s Maruti Technical Services Pvt. Limited and they had no laboratory of their own". Muller adds that Sanjay Gandhi had "overestimated his expertise in automobile industry" and, besides lacking the necessary qualification to be able "to design such engines/cars especially those intended for mass production, Shri Sanjay Gandhi lacked experience also". From a letter addressed to Maruti Technical Services Private Limited by the Department of Industrial Development on November 24, 1975 it appears that the name of the company had been enlisted with that Ministry only for statistical purposes. The relevant part of the letter reads :

"It may please be noted that this enlistment has been made purely for statistical purposes and does not carry with it any kind of financial benefits or your competence and claim to secure business."

It may be mentioned here that on January 25, 1975 a special resolution was passed at an extraordinary general meeting of Maruti Limited modifying the remuneration stipulated in the agreement dated June 2, 1972. Under the revised terms the payment by the public company of an annual technical fee on the net sales of the motor cars subject to a minimum of Rs. 2.50 lacs for each accounting year of the public company was suspended from the date of the resolution till the company commenced production of

motor cars and even after the commercial production started no technical fee would be payable "to the extent of Rs. 10.20 lacs", which is the sum that the public company had already paid.

Shri J. K. Pahuja, Manager, Finance and Credit of Maruti Limited has said that from the books of account of Maruti Limited he found that from August 17, 1971 to March 31, 1977 the total payment made to Maruti Technical Services for technical know-how and re-imbursement of actual expenditure was approximately Rs. 16 lacs. Shri P. R. Sasidharan, Accounts Officer of Maruti Limited, supports Shri Pahuja's statement. Shri M. A. Chidambaram who was Chairman of Maruti Limited till May 17, 1977, in an affidavit affirmed on November 9, 1978, has stated that the "agreement was expected to be of benefit to the company" and "there was no intention at all to cause loss to Maruti Limited". The expectation appears to have been belied. The income-tax assessment of Maruti Technical Services Private Limited for the assessment year 1973-74 was re-opened *inter alia* on the ground that inquiries made revealed that "neither Shri Sanjay Gandhi ever had any technical know-how/expertise enabling him to sell any such asset", nor was Maruti Technical Services Private Limited "ever in a position to render any technical services to Maruti Ltd. enabling the latter to manufacture any small car". Referring to Maruti Technical Services Shri R. H. Chawdhry, Chief Executive of Maruti Limited says that "from the very outset" it would seem "that these private companies were being formed only to extract finances from the main public limited company i.e. Maruti Ltd.". The facts justify Chawdhry's observation.

Agreement dated 25-1-1973 and supplemental agreement dated 17-11-1973 between Shri Sanjay Gandhi and Maruti Limited : The Board of Directors of Maruti Limited passed a resolution on March 2, 1972 appointing Shri Sanjay Gandhi, Managing Director, for a period of five years with effect from the said date. His remuneration was fixed at Rs. 4,000 per month as salary plus one per cent commission on the net profits and other perquisites. On the basis of this resolution the company applied under section 269 and 198(4)/309(3) of the Companies Act in prescribed forms 25A and 25C seeking approval of the Central Government to the appointment of Shri Gandhi on the above remuneration and also for protection of his minimum remuneration at the same salary of Rs. 4,000 per month and perquisites not exceeding Rs. 1,000 per month in value in any year when the company would fail to make any profit or adequate profit.

In processing the application the dealing assistant pointed out that the payment of remuneration to the Managing Director had to be considered on merit, i.e. the age, the educational and technical qualifications and the practical experience of the Managing Director in the trade had to be ascertained and that in this case the Department had no information about these details. He added that it appeared to him that in this case the Managing Director had nowhere served as a managing director or a technical director prior to his appointment in this company. He therefore sug-

gested to his higher authorities that information on the above points should be called for from the company. He further observed that the proposed salary, commission and perquisites seemed to be on the "higher side for a company which was still in its infancy stage". The file then went to Shri C. L. Pratham, Section Officer. Shri Pratham who was examined as a witness admitted that he did not verify the age, educational and technical qualifications and practical experience of Shri Sanjay Gandhi but accepted what was stated in the applications in forms 25A and 25C. In column 3 of the form 25A it was mentioned that Sanjay Gandhi was a qualified and experienced technician in the automobile industry and under column 5(i) it was said that he was a mechanical engineer and had considerable knowledge and experience in the design, manufacture and assembly of automobiles. In his note dated August 11, 1972 Pratham also pointed out that the details about the age, educational and technical qualifications and business experience of Shri Gandhi had not been mentioned by the company in the applications. He suggested that the appointment of Shri Sanjay Gandhi as Managing Director for five years from March 2, 1972 on the proposed remuneration might be approved subject to a limit of five per cent of the net profits and the minimum remuneration protected according to the guidelines for one year only. He also stated that considering the present state of affairs of the company the proposed remuneration seemed to be on "very high side". As for the minimum remuneration, Shri Pratham said that as the figure of paid up capital mentioned in column 2 of form 25A was only Rs. 24,60,700, this had to be taken as the effective capital and, having regard to the guidelines, the effective capital being between Rs. 10 to 25 lacs the minimum remuneration could not exceed Rs. 24,000 per annum i.e. Rs. 2,000 a month. Deposing before the Commission Shri Pratham stated that he had treated this as an important and sensitive case because Shri Sanjay Gandhi, Managing Director of Maruti Limited, was a son of Shrimati Indira Gandhi, then Prime Minister of India. The file was then submitted to Shri C.R.D. Menon who was Under Secretary in the Department of Company Affairs at the relevant time. Menon has also been examined before this Commission. He found that the applications lacked in certain important particulars like the date on which the paid up capital became effective capital, the educational and technical qualifications of Shri Sanjay Gandhi, his age etc. The witness dictated a note on the file calling for further details but before he signed it, he had to change the note under pressure. His earlier note on the file was removed and he recorded a fresh note on August 19, 1972 making out the following points: (i) that there was no objection in the absence of any complaint or disqualification to the appointment of Shri Sanjay Gandhi as Managing Director of Maruti Limited on the proposed remuneration subject to the availability of profits to pay such remuneration within the statutory limit of five per cent of the net profits of the company, and (ii) that with regard to the grant of minimum remuneration, the maximum of the minimum remuneration admissible under the guidelines should only be Rs. 2,000 per month and perquisites restricted

to one third of his annual salary or Rs. 1,000 per month. While computing the effective capital he left out of account the "charges created by the company... to the tune of Rs. 41.32 lacs" because he had "no information about the actual amount drawn or the dates thereof in respect of the charges created". Shri Menon indicated in his note that it was possible to relax the guideline on the ceiling on minimum remuneration if there was evidence to show that Shri Sanjay Gandhi was combining in himself the functions of an executive in addition to his responsibility as Managing Director of the company. Menon however said that there was no evidence in regard to this on the file. The case was then placed before Shri S. M. Yousuf, then functioning as Secretary of the Company Law Board, who recommended minimum monthly salary of Rs. 4,000 for one year plus perquisites amounting to Rs. 1,000 per month. On the question as to how the minimum salary could be fixed at Rs. 4,000 per month, Yousuf's evidence before the Commission is: "...it was a case I made out looking into the overall picture of the company, that it was supposed to be a very big, giant company with some crores of rupees, and with this background I had suggested Rs. 4,000 per month for one year only". He, however, admitted that there was no material on record which could justify fixation of salary at more than Rs. 24,000 a year under the guidelines. When it was pointed out to him that the details of the age, educational qualifications and business experience of Sanjay Gandhi had not been mentioned in the applications, Yousuf only said "I am afraid we did not call for that particular information". He said that "at that point of time there was a certain atmosphere" and it "was always working in everybody's mind" that the "applicant was Mr. Sanjay Gandhi who was the son of the then Prime Minister of India". The recommendation of the Secretary, Company Law Board, was endorsed by Shri C. C. Ganapati, Joint Secretary Department of Company Affairs, who suggested protection of the minimum remuneration for three years in the first instance. This was approved by the Deputy Minister Shri Beda Brata Barua and finally by the Minister of State for Company Affairs Shri K. V. Raghunatha Reddy.

The Department of Company Affairs in its letter dated August 28, 1972 addressed to Maruti Limited conveyed its approval to the company's proposal with this variation only that the minimum remuneration was sanctioned for a period of three years instead of five as asked for by the company.

On receiving the approval Maruti Limited entered into a formal agreement with Shri Sanjay Gandhi on January 25, 1973. The main provisions of the agreement of January 25, 1973 are these. Shri Sanjay Gandhi was to hold the office of the Managing Director for five years. His remuneration was (a) salary of Rs. 4,000 per month, (b) one per cent commission on the net profits of the company subject to a maximum of fifty per cent of the annual salary i.e. Rs. 24,000 per annum, and (c) perquisites which included (i) medical benefits for self and family not exceeding one month's salary subject to a maximum of Rs. 12,000 for a period of every three consecutive

years of service ; (ii) leave travel concession ; (iii) free use of car the monetary value of which was to be evaluated according to Income Tax Rules, 1962 ; (iv) subscription to clubs subject to a maximum of two clubs only, etc. It was provided that in the absence or inadequacy of profits in any year, the company would, as and by way of minimum remuneration, pay the same salary but not the commission and the value of the perquisites would not exceed Rs. 1,000 per month.

Thereafter Maruti Limited made another application seeking increase in the remuneration as well as the minimum remuneration of the Managing Director by way of granting bonus and additional perquisites with effect from March 2, 1972. The Company Law Board approved the proposal on July 13, 1973 following which a supplemental agreement was executed between Maruti Limited and Shri Sanjay Gandhi on November 17, 1973. Under this agreement the company was liable to pay the Managing Director bonus "according to Company's rules" and additional perquisites like free telephone facility at company's cost at the residence, free use of company's car with driver, petrol and maintenance cost, the monetary value of which was to be evaluated as per Income Tax Rules, 1962—this was introduced in supersession of the previous term as to the free use of car.

The three years protection of the minimum remuneration expired on March 1, 1975. On March 18, 1975 the Board of Directors of Maruti Limited resolved to extend the protection by two more years, from March 2, 1975 to March 1, 1977 and applied to the Central Government for approval. The Company Law Board approved the proposal on April 3, 1975. The Board of Directors of Maruti Limited on August 26, 1976 passed a resolution re-appointing Shri Sanjay Gandhi as Managing Director on the expiry of his first term as such, subject to the approval of the Central Government and the shareholders, for another period of five years with effect from March 2, 1977 on terms and conditions as before and made an application for approval of the appointment and protection of the minimum remuneration for the said period. Shri B. Prasad, Under Secretary in the Department of Company Affairs, who dealt with the case did not recommend payment of both bonus and commission to the Managing Director because both were incentives and normally it was not the practice to allow two incentives at the same time, it had to be either bonus or commission. The Joint Secretary Shri A. Choudhury agreed with his recommendation. However, Deputy Minister Shri Barua overruled them both and on November 13, 1976 approved Shri Sanjay Gandhi's re-appointment "on the same terms and conditions... as was done earlier". But before the agreement for re-appointment of Shri Sanjay Gandhi as Managing Director could be given effect to, Shri Gandhi resigned and ceased to be Managing Director with effect from March 2, 1977.

It is clear that on the basis of the two agreements large sums of money were paid for all these years to Shri Sanjay Gandhi from the funds of Maruti Limited. Clearly Shri Sanjay Gandhi did not possess the requisite qualifications, either technical or managerial, to justify the remuneration and the perquisites he was paid.

He had no managerial experience and as regards his technical qualification, the letter received from Rolls Royce Motors of England may be recalled. The resolution appointing Shri Sanjay Gandhi, Managing Director with effect from March 2, 1972 was passed by the Board of Directors of Maruti Limited at a meeting held on that day and the appointment was approved at an extraordinary general meeting of the company held on March 31, 1972. It is necessary to state certain facts concerning these two meetings. At the Board meeting held on March 2, 1972 the following Directors were present :

- (1) Shri B. C. Jindal (in Chair)
- (2) Shri Sanjay Gandhi
- (3) Shri Sudhir N. Kapadia
- (4) Shri Raunaq Singh.

Leave of absence was granted to Shri M. A. Chidambaram, Shri C. B. Saran, Shri Jagdish Prasad and Lt. Col. V. R. Mohan.

In response to a notice issued by the Commission seeking clarification from him on certain matters, Shri Jindal filed an affidavit affirmed on November 15, 1978. In this affidavit he says that he was "not conversant with the English language" suggesting that he did not quite follow the proceedings in the meetings he attended, that he had no personal knowledge of Shri Sanjay Gandhi's qualifications but "believed in good faith that he possessed the requisite qualifications to become the Managing Director" and that "at that stage" he "had no basis to suspect the bonafides of Shri Sanjay Gandhi". As regards the extraordinary general meeting held on March 31, 1972 it appears that only six shareholders were present. This meeting which approved Shri Sanjay Gandhi's appointment as Managing Director was presided over by Sanjay Gandhi himself. Those present were—

- (1) Shri Sanjay Gandhi (in Chair)
- (2) Shri R. K. Dhawan
- (3) Shri Bhim Sain
- (4) Shri Shealinder Kaintal
- (5) Karan Bir Singh Sandhu
- (6) Sudarshan Trading Company—Proxy.

In this meeting the resolution approving the appointment was proposed by Shri Bhim Sain and seconded by Shri R. K. Dhawan who was Personal Assistant to the then Prime Minister. From the affidavit dated December 16, 1978 of Shri Digambar Das, Despatch Clerk of Maruti Limited, it appears that notice of this meeting was sent only to twenty six shareholders and that too on March 12, 1972 which was eighteen days before the date of the meeting though twenty one days' clear notice was necessary under the law. Shri A. D. Kolhatkar, Manager, Personnel and Factory Administration, Maruti Limited, said : "I can positively say that out of the meetings held between 8th March, 1972 and 15th May, 1974, when I resigned, the extraordinary meeting dated 31-3-1972 was never held. The minutes of the meeting were dictated by Shri Sanjay Gandhi to Shri S. M. Rege before me". This is an uncorroborated

statement, but even if the meeting was held, the indisputable facts are that there were only six shareholders present and notice of the meeting was issued to only twenty six shareholders and the notice again was short. From these facts this at least is apparent that the intention was to avoid a properly convened and largely attended meeting of the shareholders.

It is clear that the authorities did not follow the normal procedure in approving Shri Sanjay Gandhi's appointment as Managing Director or ensuring his minimum remuneration; they were under pressure and afraid to antagonise Shri Sanjay Gandhi. The guidelines issued by the Department of Company Affairs were ignored. The practice of not allowing two incentives, commission and bonus, at the same time was departed from in this case. Shri C. R. D. Menon, Under Secretary, Department of Company Affairs said he had to alter his original note calling for further information. Shri S. M. Yousuf, Secretary, Company Law Board admitted that his recommendation was influenced largely by the atmosphere prevailing at that time.

The two agreements next in point of time are between Shrimati Sonia Gandhi on the one hand and Maruti Technical Services Private Limited and Maruti Heavy Vehicles Private Limited, respectively, on the other. They relate to her appointment as Managing Director of these two companies.

Agreement dated 26-2-1973 between Shrimati Sonia Gandhi and Maruti Technical Services Private Limited: Shrimati Sonia Gandhi was appointed Managing Director of Maruti Technical Services Private Limited at the extraordinary general meeting of the shareholders of the company held on January 25, 1973. Shri Sanjay Gandhi and Shrimati Sonia Gandhi, the two Directors of Maruti Technical Services Private Limited were also the only shareholders of the company at the time. A formal agreement was executed on February 26, 1973 under which she was to remain Managing Director for five years from January 25, 1973. The Managing Director was to discharge such duties and services and exercise such powers as assigned by the Board of Directors from time to time. She was to devote such time and attention "as may, from time to time, reasonably be required" of her during the business hours for the discharge of her duties. She was to get a salary of Rs. 2,000 per month plus one per cent commission on the net profits of the company subject to a limit of fifty per cent of her annual salary plus perquisites. As this agreement related to the appointment of a Managing Director of a private limited company, it was not required to be approved by the Department of Company Affairs.

It was a fact known to all concerned that Shrimati Sonia Gandhi was a foreign national. In view of the provisions of Foreign Exchange Regulation Act, 1973 which came into force on January 1, 1974 she could neither hold shares of any Indian company nor hold any office of profit in such company from the date the Act came into force without prior approval of the Reserve Bank of India. Ultimately she tendered resignation on January 21, 1975. It is surprising that Shrimati Sonia Gandhi who did not have any technical qualification should be appointed Managing Director

of a technical company. Quite a large sum of money was paid to her on account of her salary and perquisites during the period she remained the Managing Director of the company. Shrimati Sonia Gandhi had shown in her income tax returns the following income she received from Maruti Technical Services Private Limited :

1. For year ended 30-9-1973

From 26-2-73 to 30-9-73

(i) Salary	Rs. 20,484.00	
(ii) Bonus	Rs. 4,097.00	
(iii) Commission	Rs. 1,441.00	Rs. 26,022.00

2. Year ended 30-9-74

(a) (i) Salary	Rs. 30,000.00	
(ii) Bonus	Rs. 6,000.00	
(iii) Commission	Rs. 3,393.00	Rs. 39,393.00

(b) Dividends (Gross)		Rs. 6,030.00
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3. Year ended 30-9-75

(a) Remuneration to Managing Director from 1-10-74 to 21-1-75 including commission of Rs. 154.	Rs. 9,348.00	Rs. 9,348.00
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(b) Dividends (Gross)		Rs. 1,528.00
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Total :		Rs. 82,321.00
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Assessing the income tax of Maruti Technical Services Private Limited for the assessment year 1975-76, Shri A. Banerjee, Income Tax Officer, disallowed a part of the remuneration paid to Shrimati Sonia Gandhi as excessive because she had no qualification to be able to render any technical service to the company. Shri Banerjee's evidence is that he found that the reasonable remuneration admissible to Shrimati Sonia Gandhi could not be more than Rs. 2,000 per month inclusive of bonus and commission. The income tax assessment of the company for the two preceding assessment years had also been reopened but the proceedings after the re-opening were not concluded at the time Shri Banerjee deposed.

Agreement dated 28-9-1974 between Shrimati Sonia Gandhi and Maruti Heavy Vehicles Private Limited: It is not necessary to discuss the terms of the agreement dated September 28, 1974 between Shrimati Sonia Gandhi and Maruti Heavy Vehicles Private Limited because the agreement was never put into effect and Shrimati Sonia Gandhi did not draw any salary as Managing Director of Maruti Heavy Vehicles Private Limited.

Agreement dated 1-4-1975 between Maruti Technical Services Private Limited and Maruti Heavy Vehicles Private Limited: Maruti Technical Services Private Limited and Maruti Heavy Vehicles Private Limited also entered into an agreement on April 1, 1975 under which the Maruti Technical Services was to render technical know-how to the other company for manufacturing road rollers. The shareholders of Maruti Heavy Vehicles Private Limited passed a resolution approving the agreement on October 30, 1975 long after the agreement was executed. The remuneration

that Maruti Heavy Vehicles agreed to pay to Maruti Technical Services for supply of the technical know-how was two per cent of the net sales of road-rollers and spare parts, less all discount. The agreement was to remain effective for ten years from April 1, 1975 and was to continue thereafter on year to year basis until terminated by either side giving the other not less than six months' previous notice.

The difference between this agreement and the one entered into by and between Maruti Limited and Maruti Technical Services may be noted. Under the agreement between the two private companies, Maruti Technical Services was to be paid only two per cent of the net sales of road-rollers and spare parts, in this case no payment of any lump sum or any fixed minimum technical fee was stipulated, nor there was any clause for re-imbursement of actuals. The difference presumably was due to the fact that both the private companies were controlled by Shri Sanjay Gandhi. On the day the agreement was executed, Shri Sanjay Gandhi, Shri Rajiv Gandhi, Shrimati Sonia Gandhi and Maruti Technical Services, of which Shri Sanjay Gandhi and Shrimati Sonia Gandhi were the shareholders, held the controlling shares in Maruti Heavy Vehicles Private Limited which had a number of shareholders not belonging to the Gandhi family. From the material available to the Commission a sum of Rs. 82,660/88p. appears to have been diverted from Maruti Heavy Vehicles to Maruti Technical Services. It has been found that Maruti Technical Services was not competent to render technical know-how in respect of motor cars. There is no evidence that it had the know-how in respect of road-rollers. Shri R. H. Chawdhry, Chief Executive of Maruti Limited, has stated that till he left the company in March 1974 there was no improvement in the technical expertise of Maruti Technical Services, "Upto March 1974 Maruti Technical Services Private Limited did not have any technically qualified person or specialist on road-rollers and whatever little assembly work on road-rollers had started by the time, I had left, was done by Maruti Limited personnel, using Maruti Limited's premises and all the other related services i.e. electricity, water, telephone, postage, trunk-calls, furniture, tools and vehicles etc."

The officers of Maruti Limited who deposed—R. H. Chawdhry, Chief Executive; S. M. Rege, Secretary; J. K. Pahuja, Manager, Finance and Credit; and A. D. Kolhatkar, Manager, Personnel and Factory Administration, have all stated that the two private companies had been utilising the services of the employees of the public company and also its office space, laboratory, workshop, telephones, vehicles etc. Rege has said that he himself, J. K. Pahuja and Mohinder Singh, all full time employees of Maruti Limited, were also working for Maruti Technical Services Private Limited and Maruti Heavy Vehicles Private Limited. According to Rege the following members of staff were common between Maruti Technical Services Private Limited and Maruti Limited :—

1. Shri S. M. Rege
2. Shri J. K. Pahuja
3. Shri J. L. Varma
4. Shri J. K. K. Afridi

5. Shri A. K. Gulati
6. Shri A. S. Parmar
7. Shri G. L. Kalra
8. Shri P. R. Sasidharan
9. Shri A. D. Kothatkar
10. Shri Mohinder Singh.

J. K. Pahuja also named the employees of Maruti Limited who were also working for Maruti Technical Services Private Limited and Maruti Heavy Vehicles Private Limited. They were :

1. Shri S. M. Rege
2. Shri A. D. Kolhatkar
3. Shri J. K. Pahuja
4. Shri J. L. Varma
5. Shri A. S. Parmar
6. Shri A. K. Gulati
7. Shri J. K. K. Afridi.

The employees of Maruti Limited who were working for either or both the private companies were given a nominal honorarium which was not a fixed sum and depended on the discretion of the Managing Director, Shri Sanjay Gandhi. Shri Kolhatkar has said that not only the officers but also the draftsmen and some other employees of Maruti Limited who were workers under the Factories Act were also made to work for Maruti Technical Services Private Limited though they were on the pay rolls of the public company. According to Kolhatkar he pointed out to Shri Sanjay Gandhi that double employment was prohibited under section 60 of the Factories Act and was punishable under section 93 of the said Act. Kolhatkar suggested to Sanjay Gandhi that he should appoint a separate set of officers for Maruti Technical Services. Shri R. H. Chawdhry also expressed the same view. To that Sanjay Gandhi replied, according to Kalhatkar, that he did not care for the Acts made by Parliament. Kolhatkar added that he had seen the list of employees working with Maruti Technical Services during the year 1972-73 and found that all the 23 employees of Maruti Technical Services figured in the muster rolls of Maruti Limited. Kolhatkar stated further that the employees of Maruti Limited were also utilised by Maruti Heavy Vehicles Private Limited for the assembly of road rollers. He named these employees :

1. Shri Joginder Singh
2. Shri P. N. Raut
3. Shri Alimuddin
4. Shri N. D. Joshi
5. Shri Kishori Lal.

The employment of the staff of Maruti Limited by the two private companies resulted in indirect diversion of a large sum of money from the public company to the two private companies controlled by Shri Sanjay Gandhi. It has not been possible to ascertain the exact amount so diverted. Shri Ram Swaroop, Labour-Cum-Conciliation Officer of Haryana Government in Gurgaon, deposing before the Commission said that it never came to his notice that the same employees were working for the public company and also for the two private companies. On proper supervision it should not have been difficult to find out the true facts.

CHAPTER VI

Items 7, 8 and 9 of the matters listed in the terms of reference fall into one group and cover a very wide field. They are being dealt with together in this chapter. The seventh term of reference relates to business dealings of the Maruti concerns with the Central Government and, various State Governments and also public sector undertakings, statutory corporations, Government companies and local bodies. It covers all matters pertaining generally to the negotiation, conclusion and execution of contracts and agreements between the Maruti concerns and the Departments of the Central or State Governments, etc. The various aspects of these transactions such as the reasonableness of the terms of such contracts and their competitive character, the measure of freedom that the contracting parties had in entering into such contracts and agreements, the extent to which the normal procedural and other requirements were adhered to, the extent of the extra financial burden that the other parties to the contract had to bear under those contracts and agreements, the quality of the performance of the contracts by the said Maruti concerns and the standard and utility of the goods and services supplied thereunder and all other aspects of such contracts and agreements between the said Maruti concerns, either as principals or agents, and the aforesaid contracting parties relating to supply of mounted cranes, trucks, road rollers, aircraft and the building of bus bodies are to be looked into. The eighth term relates to all matters in respect of contracts and agreements mentioned in item 7, which pertain to or suggest undue influence, coercion, misrepresentation, exercised, used or made by the Maruti concerns or by any of their Directors, Managing Director, officers, associates or anyone connected directly or indirectly with those concerns or acting on the instructions, instance or guidance of any such Director, Managing Director, officer, associate, etc. The ninth term of reference amplifies the scope of the seventh term by directing the inquiry to such further matters as the nature, magnitude, justifiability, propriety and legality of the financial and other benefits that accrued to all or any of the Maruti concerns or to anyone directly or indirectly connected with those concerns or his friends, relatives or dependents, arising out of the above contracts and agreements as well as all matters relevant to the determination of responsibility for entering into those contracts.

Numerous transactions have been reported by different departments of the Central Government and local authorities and Government companies which were entered into by them with Maruti Limited and Maruti Heavy Vehicles Private Limited. Certain State Governments, namely, Himachal Pradesh, Haryana, Rajasthan, Madhya Pradesh, Punjab, Karnataka, Uttar Pradesh and Maharashtra have also furnished details regarding transactions which were entered into by those Governments or their Road Transport Corpora-

tions and other statutory bodies (such as New Okhla Industrial Development Authority, Himachal Pradesh Housing Board) with Maruti Limited, and Maruti Heavy Vehicles Private Limited. A complete list of the various business transactions thus entered into will be found in Annexure 'A' at the end of this chapter.

The various transactions etc., can be conveniently grouped together as follows :

- (a) Supply of road-rollers (and spares) by Maruti Heavy Vehicles Private Limited ;
- (b) Contracts for fabrication of bus-bodies by Maruti Limited ;
- (c) Import and sale of Piper Aircraft ;
- (d) Supply of various components, parts, etc. by Maruti Limited and Maruti Heavy Vehicles Private Limited to the Department of Defence Supplies, Department of Supply, Department of Electronics, Hindustan Aeronautics Limited, etc.
- (e) Trade enquiries made by Maruti Technical Services Private Limited for supply of certain items (and also purchases made) from Bharat Electronics ;
- (f) Purchase of aircraft-spares, equipment, tools, etc. by Maruti Technical Services Limited from Indian Airlines.
- (g) Supply of the following items by Maruti Heavy Vehicles Private Limited to Oil and Natural Gas Commission (ONGC) :
 - (i) 14 truck tractors ;
 - (ii) 8 truck-mounted mobile cranes ;
- (h) Miscellaneous transactions including :
 - (i) Purchase of Quick Flow Polymix by Water Supply and Sewerage Disposal Undertaking from Maruti Technical Services Private Limited ;
 - (ii) Purchase of pre-cast RCC slabs by New Delhi Municipal Committee from Maruti Limited for storm water drains ;
 - (iii) Consultancy Contract of Maruti Technical Services Private Limited with NOIDA ;
 - (iv) Purchase of 6 Maruti Profiles by Engineering Projects (India) Limited ;
 - (v) Negotiations for purchase of machines from Maruti Limited by Scooters India Limited ;

- (vi) Trade offer from Maruti Limited for building of cabs and bodies received by Scooters India Limited ;
- (vii) Placement of orders for Idlers and Rollers of Maruti Limited by Mining and Allied Machinery Corporation Limited ;
- (viii) Sale of machines to Maruti Limited by Hindustan Machines Tools.

- 11. Purchase of one Road Roller by Central Coalfields Company Limited, a public sector unit.

III. Bus Body Fabrication Contracts/Orders :

Orders placed with Maruti Limited by :—

- 1. Rajasthan Roadways.
- 2. Madhya Pradesh Roadways.
- 3. Uttar Pradesh Roadways.

It was not considered feasible to conduct a detailed probe into each and every transaction. Certain transactions were *prima facie* of a minor character. In some cases though negotiations had been initiated, no business actually materialised. In 3 cases viz. ONGC Road Rollers case, Polymix case and Delhi Transport Corporation Bus Body Building Contract, the Central Bureau of Investigation had already finalised their investigation and initiated further action. A *de novo* investigation by the Commission into those cases did not seem necessary. As a result of a preliminary check of the available material certain cases could, however, be identified as deserving a detailed probe. These are listed below :—

I. ONGC Cases :

- 1. Purchase order for 14 truck tractors placed by ONGC on Maruti Heavy Vehicles Private Limited in 1976 ;
- 2. Purchase of 8 Truck mounted mobile cranes by ONGC from Maruti Heavy Vehicles Private Limited.

II. Road-Rollers Group Cases :

- 1. Purchase of 25 Road Rollers of Maruti make by Public Works Department (Building and Roads) Rajasthan ;
- 2. Purchase of 10 Maruti Road Rollers by New Okhla Industrial Development Authority (NOIDA) Govt. of Uttar Pradesh.
- 3. Purchase of 15 Maruti Road Rollers by Government of Punjab.
- 4. Purchase of 9 Maruti Road Rollers by Government of Himachal Pradesh and one such Road Roller by Housing Board, Himachal Pradesh.
- 5. Purchase of 3 Maruti Road Rollers and spare parts by NDMC.
- 6. Purchase of 10 Maruti Road Rollers by Delhi Development Authority.
- 7. Purchase of 3 Maruti Road Rollers by Delhi Municipal Corporation.
- 8. Purchase of 8 Road Rollers of Maruti make by Government of Karnataka.
- 9. Purchase of one Road Roller by Rajasthan Roadways.
- 10. Purchase of 6 8/10 tonnes Road Rollers of Maruti make and spare parts of Road Rollers by Engineering Projects (India) Limited.

Specific mention has been made in this item of contracts for the supply of mounted cranes, trucks, road rollers and also for fabrication of bus bodies. Oil and Natural Gas Commission entered into two separate deals with Maruti Heavy Vehicles Private Limited for supply of mounted (mobile) cranes and truck tractors. The road rollers group of cases covers numerous transactions. These have been dealt with together in this report for the sake of convenience. Insofar as Bus body building contracts/orders are concerned, it is necessary to look into certain transactions entered into by Maruti Limited, with the Road Transport Corporations of Madhya Pradesh, Rajasthan, Uttar Pradesh and Delhi Transport Corporation. Maruti dealings with Haryana Roadways were excluded from the terms of reference of this Commission as these transactions were included in the terms of reference of the Commission of Inquiry headed by Shri Jagannathan Reddy.

For supply of Piper aircraft, negotiations were entered into between certain State Governments and authorities subordinate to them, with Maruti Technical Services Private Limited. Orders were not, however, placed on Maruti Technical Services Private Limited for supply of the aircraft, even though orders for release of requisite foreign exchange for their import were issued by the Central Government, due to the change in the Government at the Centre in March 1977. No transaction regarding aircraft of any other make involving any of the Maruti concerns was reported to this Commission.

Case-wise statements of facts have been prepared which are incorporated in the Appendix to this report. For full details of each case the relative statement of facts can be referred to.

TRUCK TRACTORS

ONGC had floated a global tender for truck tractors (an imported item), 16 units without oilfield equipment and 6 units with oilfield equipment. Tenders were received from different parties which were opened on March 4, 1976. 21 offers were received on time while 7 were received late. One of the timely tenders was from Maruti Heavy Vehicles Private Limited for a West German model. This offer along with several others was considered technically acceptable, the lowest offer so acceptable being that of M/s. Unimac Corporation. While these tenders were under consideration, a fresh offer dated May 14, 1976 (that is long after the date of opening the tenders) was received from Maruti Heavy Vehicles Private Limited for a different model. The company approached the

then Minister of Petroleum, Shri K. D. Malaviya, requesting consideration of this late offer. The letter containing this new offer was passed on to ONGC with a minute of the Minister, Shri K. D. Malaviya to consider it, if otherwise in order. The Tender Committee of the Oil and Natural Gas Commission considered the matter again and decided to call for fresh bids by June 28, 1976 from all the parties. The fresh quotation of UNIMAC was again found to be the lowest. Maruti Heavy Vehicles sent a telegram which was received on July 3, 1976 offering reduction in the Indian agent's commission from 7½ per cent to 3½ per cent. Thereafter, further negotiations were held and eventually the offer sent by Maruti Heavy Vehicles as revised was recommended for acceptance for the truck tractors without oilfield equipment. The requirements were, however, revised and reduced to 12 units without oilfield equipment and two units with oilfield equipment. While making a comparison of the quoted prices, certain essential elements, i.e., heavy lift charges and cost of spare tyres, were ignored and insurance and freight charges were also calculated on a rough percentage basis and not on the basis of figures quoted by the parties. When the case went to the Government for consideration, not only was the proposal of ONGC in respect of 12 truck tractors without oilfield equipment accepted, but even for the two truck tractors of the second category, the Minister-in-charge decided to accept the Maruti Heavy Vehicles offer on the ground that it had become the cheapest as a result of further reduction offered by the supplier. It was pointed out to the Minister by the Joint Secretary concerned that even with this reduction, the Maruti Heavy Vehicles offer for truck tractors with oilfield equipment remained costlier than UNIMAC's offer. On this Shri K. D. Malaviya decided that the supplier (MHV) should be asked to further reduce their price. Concurrence of the Finance Ministry was obtained to this proposal on September 20, 1976 and orders were placed on Maruti Heavy Vehicles for both the categories of vehicles at a total cost of Rs. 73.48 lacs. Maruti Heavy Vehicles having failed to make supplies, the purchase order was eventually cancelled on October 7, 1977 at the risk and expense of the party. On the basis of the evidence available, the Commission is of the view that undue favour was shown to Maruti Heavy Vehicles Private Limited, in considering their late offer for a different model and allowing the company to revise its quotations again and again without allowing similar opportunity to other competitors to participate in the negotiations. Further, the computation of the quoted price and incidentals was not done according to the correct methodology with the apparent object of getting financial benefit to the supplier.

MOBILE CRANES

Global tenders were floated by Oil and Natural Gas Commission for supply of 8 truck mounted mobile cranes (an imported item). The tenders were opened on June 7, 1975 and offers of 10 parties covering 13 models were found technically acceptable. Maruti Heavy Vehicles had sent a timely offer for 2 DEMAG models which were not found to conform to the tender specifications. On October 17, 1975 Maruti Heavy

Vehicles submitted a fresh offer for two different DEMAG models. A Committee of Officers of the Oil & Natural Gas Commission examined all the offers received, both timely and late, on 10th November, 1975. Though the necessary technical data was not available, on the basis of a load diagram chart and certain assumptions, the revised offer of Maruti Heavy Vehicles for the different model of DEMAG which had air cooled engines was recommended for acceptance without even checking whether the crane model TC-280L now offered conformed to the tender specifications, particularly the lifting capacity of the boom to the required height of 12 metres and mobility of the vehicle. Approval of the Members concerned in the Oil and Natural Gas Commission was not obtained in the first instance before considering the late offer of Maruti Heavy Vehicles and negotiations were also conducted with the parties without obtaining the prior approval of the competent authority. The Tender Committee had recommended the purchase of mobile cranes of HOIST make for which the quotation was the lowest technically acceptable, but had also cleared the latest offer of Maruti Heavy Vehicles for air cooled DEMAG model as technically suitable. The Secretary in the Ministry of Petroleum recommended acceptance of the lowest offer for HOIST make cranes which conformed to the tender specifications. The then Minister of Petroleum, Shri K. D. Malaviya, however, did not endorse this recommendation and recorded a note on January 29, 1976 directing acceptance of the offer of Maruti Heavy Vehicles for DEMAG cranes on two grounds. He referred to the failure on the part of some American suppliers in providing spares on time and also laid stress on the possibility of a collaboration being worked out between Maruti and Demag. On January 27, 1976 Maruti Heavy Vehicles offered a price reduction and volunteered to forego totally the Indian agent's commission. The then Finance Minister to whom the case was referred for concurrence initially favoured negotiations so as to bring the price quoted for the Demag model to the level of the second or third lowest. However, a discussion at this stage was held between Shri K. D. Malaviya and the then Finance Minister Shri C. Subramaniam and a fresh note was recorded by Shri C. Subramaniam (which was pasted over the original) merely expressing a desire to make the offer more competitive. Maruti Heavy Vehicles offered a reduction of DM 1000 per crane (approximately Rs. 3,500) against a total cost of Rs. 22.79 lacs each. The foreign exchange requirements were also recalculated but instead of the actual increased requirement of Rs. 16.84 lacs, an increase of Rs. 12.03 lacs was shown. The revised foreign exchange requirement of Rs. 1.70 crores was released by the Department of Economic Affairs without the specific approval of the Finance Minister. The Minister for Petroleum Shri K. D. Malaviya accepted the higher offer for DEMAG cranes made by Maruti Heavy Vehicles in preference to the lower offer of HOIST. The proposed collaboration arrangement between Demag and Maruti which was referred to as one of the factors in favour of Maruti Heavy Vehicles offer never materialised. In fact no collaboration proposal was actually under consideration at that stage between Demag and any of the Maruti concerns nor had any application been received from Maruti for such a collaboration. Even though Maruti

Heavy Vehicles had offered to forego the entire Indian agent's commission in their revised offer, Demag have confirmed having paid the equivalent of Rs. 13.62 lacs as commission to Maruti Heavy Vehicles and another Rs. 2.56 lacs (D.M. 69000) as mediation commission to one Shri Onkar Ahluwalia, the Company's representative in West Germany. Maruti's share of the commission was credited to their Bank account in the Mullahera Branch of the Central Bank of India.

The evidence adduced before the Commission as regards the above transaction clearly shows that undue favour was shown to Maruti Heavy Vehicles Private Limited in entertaining the offer made by the company and allowing it to make unilateral reductions in the quoted price. Rejection of the lower offer for cranes of HOIST make could not be justified on the basis of the grounds stated by the Minister of Petroleum in his note and is another instance of undue favour to Maruti Heavy Vehicles Private Limited.

ROAD ROLLERS

A large number of transactions fall in this group and most of them have been examined. The facts of each case have been considered in detail in the relative statement of facts (see Appendix). On analysis of the facts certain common features of these transactions have been identified.

Global tenders had been invited by the Public Works Department (Building and Roads) of Government of Rajasthan for bulk purchase of road rollers (25 in number) for certain project works. Detailed specifications had been notified for this purpose. One of the offers received in response to this invitation was from M/s. Jalan Modi Automobiles for Maruti brand road rollers. This offer was rejected as being technically unacceptable and also because the price quoted (Rs. 1,60,000 per unit) was not the lowest. Shortly thereafter fresh tenders were invited for purchase of a second lot of road rollers for execution of certain Central road works. The purchase was to be financed out of a loan promised by the Ministry of Shipping and Transport, Government of India, in July 1975, subject to the condition that the purchase of the equipment sanctioned out of the loan assistance was to be routed through Director General of Supplies and Disposals (DGS&D), a Central purchase organisation. On this occasion the specification for the road rollers as notified were different. M/s. Jalan Modi Automobiles, authorised selling Agents to Maruti Heavy Vehicles Private Limited for road rollers, sent their offer. This offer, though not the lowest, was accepted after the price quoted by them was reduced by Rs. 2500 per roller. Shri Amrit Swarup Agarwal, Executive Engineer, Mechanical, PWD (B&R), Rajasthan and certain other witnesses have categorically stated that the above order was placed due to pressure from the then Chief Minister, Rajasthan, Shri Harideo Joshi. Shri A. S. Agarwal has brought out the following facts in his statement :

... as on 1st January, 1976 I could not visualise that tender of M/s. Jalan Modi Automobiles could be considered for acceptance

because their price per unit was Rs. 1,25,000. I had, therefore, issued such letters only to the firms who had given the three lowest tenders. I thought at that time that tender of one of them was likely to be accepted. It was on 2nd January, 1976 for the first time that I learnt from the Chief Engineer that the Chief Minister desired the order to be placed on M/s. Jalan Modi Automobiles."

Shri Durga Prasad Jain, former Chief Engineer, PWD (B&R), Rajasthan has in his deposition before the Commission admitted that the Chief Minister, Shri Harideo Joshi, told him to accept Maruti's offer by 3rd January, 1976. He has further stated "I was told that last time also I did not do the right thing and created difficulty in not getting the Maruti's tenders sanctioned. This time if I behaved in this manner, I will be in difficulty in hot waters—and this is emergent time and anything can happen".

The offer quoted by Maruti Heavy Vehicles Private Limited was not the lowest and Shri D. P. Jain had to enter into negotiations with Shri K. L. Jalan of Jalan Automobiles, sole selling agents, for Maruti Road Rollers, for getting their quotation lowered. Certain other witnesses have in their testimony before the Commission admitted having committed certain procedural lapses so that the order could be placed quickly. Certain technical deficiencies in the Maruti Road Rollers have also been brought out in the evidence. Two witnesses Shri Raman Lal Gupta, Senior Accounts Officer and Shri A. S. Agarwal have told the Commission that Shri D. P. Jain warned them that "Main to MISA men Jaoonga he Jaoonga, Aap bhe mere sath jaenge agar aapne note chadane shuru kiye to" (I shall go in under MISA, you too shall be sent in if you put up notes).

Rajasthan Roadways also purchased one Maruti Road Roller without inviting open tenders. The price paid by them was that settled by the Public Works Department (Buildings and Roads) of the State Government in their deal with M/s. Jalan Modi Automobiles.

Another major purchaser of Maruti brand rollers was the Public Works Department of Government of Punjab. That Department purchased 15 road rollers (and spares) from M/s. Jalan Modi Automobiles, Sole Selling Agents for Maruti Rollers. Action was initiated for purchase of road rollers by the Public Works Department in pursuance of the decision taken by the then Chief Minister, Punjab on September 13, 1976. This was done on the recommendation of the Minister, PWD, Punjab, as Shri T. A. Pai, who was then Union Minister of Industries and Civil Supplies had written to the Chief Minister in July 1975 and again in August 1976 to purchase road rollers from Jessops, a public sector unit, which was having a heavy inventory of road rollers. Though necessary funds had not been provided in the State Budget for purchase of road rollers, the Chief Minister directed that an indent for purchase may be placed. Tenders were, thereafter, invited by the Controller of Stores, Punjab (Date of publication 30th September, 1976 and due date for

opening fixed 15th October, 1976). After considering the offers received (7 in all) including the offer of Greaves Cotton for Jessops rollers, the lowest three were rejected and that of M/s. Jalan Modi Automobiles for Maruti brand rollers was treated as competitive and accepted. No administrative approval or financial sanction was obtained before placing the indent. Shri O. P. Malhotra, Chief Engineer, Punjab, has stated that "though it is a normal procedure to submit estimate for administrative approval prior to the placing of indent, it could not be done in this case as the Chief Minister had ordered to place an indent immediately". Payment for the rollers was made by issuing a Letter of Credit since budget provision did not exist. In his statement Shri Malhotra has given the following explanation :

"As per the Chief Minister's orders, the Letter of Credit was issued out of the suspense account as the road rollers had already been delivered and payment (90 per cent) could not be withheld as per the terms of the supply order."

Shri S. L. Kapur, Commissioner, Excise and Taxation, Punjab, who was Secretary, Industries and Public Relations, Government of Punjab, in 1976, has stated "I received a number of messages from C.M.'s Secretariat regarding early disposal of this file. It was also indicated to me by the Secretariat Staff that Mr. Jalan had also met the Chief Minister and that the C.M. was annoyed on the delay in disposing of the file". Shri Kapur had put up the file with his note to the Chief Minister who was also the Industries Minister then. The note was approved by the Chief Minister the same day.

The Government of Himachal Pradesh has purchased 10 Maruti brand rollers in all. 9 were purchased by the Public Works Department of the State Government while the tenth unit was purchased by the Himachal Pradesh Housing Board. Two out of the nine Maruti rollers acquired by the State PWD were received in 1975, two in 1976 and five in 1977. Several witnesses in their depositions before the Commission have openly referred to the pressure that was put on them by the then PWD Minister. Shri Ram Lal, Shri R. C. Singh, Chief Engineer, has stated that about September 1975 he was told by Thakur Ram Lal that Shri Sanjay Gandhi had asked him to purchase two or three Maruti Road Rollers for Himachal Pradesh, PWD and it appeared to him (Shri R. C. Singh) that the Minister was under some sort of pressure. He told the Minister that he was not competent to place an order directly and that a reference to Controller of Stores was necessary. Shri Ram Lal told him to go ahead with the matter and expedite the same. Action was, therefore, initiated for purchase of 2 road rollers. In September or October 1976 Thakur Ram Lal, Minister, again told him that he was under pressure the Minister desired that the matter should somehow rollers for Himachal Pradesh, PWD. There was no budget provision for the purchase of road rollers but the Minister desired that the matter should somehow be pushed through. Several other witnesses have also referred to the atmosphere of fear which was then prevailing and said that they handled the case with utmost

expedition knowing that the Maruti Heavy Vehicles Private Limited was owned by Shri Sanjay Gandhi. Shri H. C. Malhotra, another Chief Engineer in the PWD of the Himachal Government has, however, denied that any pressure was put on him. It has come in evidence that his wife, Mrs. Usha Malhotra had contested the Assembly Election for Simla constituency as a Congress Candidate in June 1977. Shri Inder Mirchandani who was then the Chief Engineer, Himachal Pradesh Housing Board, has said in his statement that in connection with the purchase of one road roller by the Housing Board Shri H. S. Sobti, representative of M/s. Jalan Modi Automobiles, introduced himself as representative of Maruti Road Rollers. Mirchandani says "Shri H. S. Sobti had told me that he was representing Sanjay Gandhi and that it was in my own interest to place order for Maruti Road Roller to meet the needs of the Housing Board. That time was an emergency period and the atmosphere remained vitiated. The PWD had already purchased some road rollers from this firm and it was known to all that the Government was interested in the purchase of these road rollers. Shri Sobti had also told me that he had taken Thakur Ram Lal, Minister PWD, and Shri H. C. Malhotra, Chief Engineer, to Gurgaon for showing the factory. He offered to take me also to the factory and introduce me to Shri Sanjay Gandhi"

"I was conscious of the fact that the firm offering Maruti road rollers belonged to Sanjay Gandhi and his representative who was near to the Government had already threatened me by saying "Na Lo Gey To Pachtao Gay" [If you do not take (Maruti road rollers) you will come to grief].

The New Okhla Industrial & Development Authority (NOIDA) which was set up by the Government of Uttar Pradesh in April 1976 under U.P. Industrial Area Development Act of 1976, had placed several orders in quick succession on Maruti Heavy Vehicles Private Limited for supply of road rollers—ten in all—through their authorised selling agent Jalan Automobiles. Shri D. M. Misra, Chief Executive Officer, NOIDA, has brought out the following facts in his statement :

"On 15th April, 1976 I met the Chief Minister of Uttar Pradesh at U.P. Niwas who informed me that Shri Sanjay Gandhi had informed him that no work was being done in the project. The Chief Minister appeared to be upset and desired that the whole work should be started on war footing and the red tapism should not come in our way. He also desired that we should ensure very speedy and visible progress and keep Shri Sanjay Gandhi informed of the progress. In pursuance of these directions of the then Chief Minister I met Shri Sanjay Gandhi at the then Prime Minister's house about five or six times " "Shri Sanjay Gandhi also visited NOIDA site about four-five times between May/June 1976 to February 1977. During most of his visits I was present except the first one and may be one or two afterwards. During these visits also he gave various suggestions about various development works

such as construction of sheds, roads, laying of sewer lines, erection of power stations etc. etc."

"As far as I remember Shri Sanjay Gandhi had visited NOIDA on a Sunday in the last week of June 1976. I was not present at that time. One of the Assistant Project Engineers, Mr. H. S. Gaur was present. Shri Sanjay Gandhi was accompanied by Shri Jagmohan, Vice-Chairman, DDA. He was taken around the various developmental works. He expressed opinion that there was a shortage of road rollers in NOIDA and therefore the compaction of roads might not be of the desired quality Shri Gaur informed me about the visit of Shri Sanjay Gandhi and points raised by him probably Shri N. D. Tiwari the then Chief Minister of U. P. also visited Delhi on the same day. It was probably the same Sunday that I met him in the evening at U.P. Niwas. He inquired about the progress of the project and informed me that Shri Sanjay Gandhi had informed him that there was a shortage of road rollers in NOIDA. He wanted to know what steps were being taken to procure road rollers. I informed him that we had purchased Jessop road roller and were making arrangements for more road rollers He said that we may consider Maruti road rollers also and as they would be easily available and Shri Sanjay Gandhi could also be requested to expedite their deliveries. Before this I did not know that M/s Maruti Limited were manufacturing road rollers. On the basis of this suggestion of the Chief Minister I asked the Senior Project Engineer, NOIDA, Shri B. S. Agarwal to float quotations from them also in this case also it was a rush purchase. There was no time to invite quotations through wide publicity from other manufacturers. The matter was also not examined in great technical assessment/details by making technical comparisons".

After this the requirement for road rollers was reassessed by the NOIDA Project officials from time to time and purchases made by placing repeat orders on Jalan Modi Automobiles.

The Public Works Department (Buildings and Roads) of the Government of Madhya Pradesh had been advised by DGS&D, (on whom an indent had been placed as envisaged in rule 7 of the Stores Purchase Rules of the State Government) in February 1977 to meet part of their requirements for road rollers by purchasing 5 Maruti Road Rollers (against an indent for 36 rollers). This advice was not accepted by the State PWD for technical reasons in March 1977. However, the Irrigation Department of the same State purchased two Maruti Road Rollers in February 1977 after inviting a short notice tender instead of placing an indent on DGS&D. Three valid offers that of Jessop, Lion and Maruti were received and the offer

of Maruti was the lowest. The Jessop offer was rejected and purchase of 3 rollers—two of Maruti make and one of Lion make was ordered. Shri G. G. Puri, Chief Engineer (EM), Irrigation Department, Madhya Pradesh, has stated the following facts in his affidavit:

"The purchase of 2 Maruti Rollers and one Lion Roller were essentially trial purchases against specific sanction and requisition with due regard to constraints of time and position of funds. Though I was under considerable pressure to agree to the purchase of large number of Road Rollers I have done everything that could be done to protect the interests of the State" Shri Laxman Panjwani of Bhopal has stated in his affidavit that the trial tests of one of the two Maruti Rollers purchased by the Irrigation Department were undertaken and certain deficiencies noticed. The working of one roller loaned to Public Works Department for consolidation of roads has not been trouble free. The other roller could not be used or tested till 8th December, 1977, the date of the affidavit.

The Irrigation Department of the Government of Karnataka had also purchased 8 Road Rollers of Maruti make. The State Government had sanctioned purchase of 19 Diesel Road Rollers during 1975-76 for the Malaprabha Project. In the sanction it was stipulated that the purchases may be made without going through the Stores Purchase Department but advantage could be taken of any subsisting DGS&D rate contract. As there was no DGS&D rate contract for road rollers in force at that time, a restricted inquiry was floated by inviting quotations from five manufacturers of repute or their sole selling agents on December 1, 1975 for supply of road rollers. On December 2, 1975 quotation was also invited from M/s Jalan Modi Automobiles, Gurgaon. The letters inviting the quotations did not specifically refer to ISS specifications for road rollers. Three firms viz. Greaves Cotton (for Jessop road rollers), Garden Reach Workshop (for GRW road rollers) and Jalan Modi Automobiles (for Maruti road rollers) responded. Two firms did not respond at all while the sixth firm wrote to say that they had stopped manufacturing road rollers. An indent for supply of 11 road rollers of Jessop make was placed with the DGS&D on December 6, 1975 as in the meanwhile Greaves Cotton and Company Limited had informed the Chief Engineer that Jessop road rollers offered by them were available at DGS&D approved price of Rs. 1,56,000 each. For the balance requirement of 8 road rollers an order was placed on Jalan Modi Automobiles on January 1, 1976 and the lowest offer of Garden Reach Workshop (a public sector unit) was ignored. The field staff of the Irrigation Department later reported that the Maruti road rollers did not give satisfactory service, specially in up hill drive, due to improper weight distribution between the front and rear wheels of the equipment.

In his testimony before the Commission Shri Basawaraj, Special Secretary, PWD (Irrigation), Government of Karnataka, has stated "I do not remember whether anyone met me while I was in Bangalore in November before sending the enquiries. I got the literature regarding Maruti Road Rollers in the Chambers of the Minister of State for Major and Medium

Irrigation, who informed me about the new rollers and asked me to examine this product for use in the Irrigation Projects". At that time Shri Subhash Ashture was the Minister for Major and Minor Irrigation.

The New Delhi Municipal Committee, a local authority under the control of the Central Government, had also purchased 3 road rollers of Maruti make alongwith spare parts. In August 1974 the Municipal Engineer, NDMC proposed purchase of two road rollers as according to him road rollers acquired by NDMC in 1966-67 had become unserviceable. At first purchase through DGS&D was contemplated. The matter was however reviewed sometime in August-September 1975 and a decision was taken to invite open tenders. In response to the invitation to tender issued on October 27, 1975, several offers were received including one by M/s Jalan Modi Automobiles for Maruti road rollers. The offer of M/s Jalan Modi Automobiles was not the lowest but it was recommended for acceptance by the Chief Engineer, Shri V. P. Chetal, as according to him the Maruti road rollers were of good quality being the product of a registered small scale industry, and entitled to 15 per cent price preference. Supply order was placed on M/s Jalan Modi Automobiles for 3 road rollers instead of two. Several witnesses, including Shri V. P. Chetal, Chief Engineer of NDMC have while explaining their role in this deal admitted before the Commission that they were acting under pressure. In his statement Shri V. P. Chetal has said: "There was certainly no immediate need for the purchase of the road rollers and we could have managed without the same for some more time". He has further stated, "I would like to restate that although the actual need for additional heavy road rollers arose only with the commissioning of the Hot-Mix Plant, I was pursuing this matter vigorously because of the pressure on me for purchase of Maruti road rollers". He goes on to say ".....after the promulgation of the emergency, I was in no position to take any steps which might have given the impression of my being obstructive. The fear of unpleasant consequences had always loomed large in my mind. Persons like Shri Arjun Das and Shri K. L. Jalan were constantly pursuing me for securing an order in this regard and I was fully aware that Shri Sanjay Gandhi was the promoter of M/s Maruti Heavy Vehicles Private Limited". Shri V. P. Chetal gave a certificate of satisfactory performance for Maruti road rollers in his inspection note dated 29-10-1974 after attending a demonstration run of one road roller at Maruti factory, Gurgaon. Two other engineers had also given similar certificates. In his statement Chetal says "I was pressurised in giving this report by Shri Sanjay Gandhi and the matter was pursued by Shri K. L. Jalan repeatedly. I am not a mechanical Engineer and I have done no specialised course in designing and research of road rollers. My knowledge in this regard was limited only to the practical experience gained by me over a period of time in the field. I would not have given the report in question but for the pressure on me"

The Delhi Municipal Corporation also purchased three road rollers of Maruti Make directly by inviting

open quotations instead of placing an indent on the DGS&D

The Municipal Corporation, Delhi, had included in the sanctioned estimate for road making machinery road rollers (with hot mix plant), to be purchased through DGS&D. An advance deposit of Rs. 5.40 lacs was proposed on August 16, 1975 and was approved by the Commissioner, Shri B. R. Tamta, only on January 1, 1976. But on February 25, 1976 it was decided, instead, to call for open tenders to avoid delay. According to Shri C. M. Vij, then Assistant Engineer, he received a telephone message on February 23, 1976 from the then Deputy Municipal Engineer, Shri J. D. Goyal, who had desired that before giving the advance for the purchase of road rollers the matter might be brought to his notice. He made a note to this effect on the file. He says further "I also conveyed the above message to Shri V. P. Saluja who told me that he knew about it as the purchase was to be made from Maruti now". In the tender specification Indian Standards Institution (ISI) specifications were not adopted. Pre-delivery inspection by DGS&D suggested by Shri S. D. Mehta, Assistant Engineer, in his draft specifications was changed to inspection by Engineer-in-charge. According to Shri Mehta, "the above conditions were not allowed to be incorporated to accommodate Maruti road rollers".

Of the 8 tenders received in response to the open tender, 5 were passed over as they did not enclose the earnest money deposit as per tender notice. These included Jessop and Garden Reach Workshop (Govt. companies) and two others, including the lowest tenderer M/s VAK Engineering, registered with DGS&D, and consequently according to the rules they were not liable to make earnest money deposit. The lowest valid offer of M/s Associated Tubewells (ATW), among the remaining three, was rejected. The next lowest tender for Maruti road rollers was accepted by Shri Tamta, Commissioner, Municipal Corporation of Delhi, exercising the powers of the Corporation. Maruti road rollers had cast iron rolls while the tender specification prescribed rolls of fabricated steel. It did also not meet with certain other tender specifications. Three road rollers were received in November 1976 which were subjected to visual inspection only. As for their performance, out of 417 days from November 10, 1976 to December 31, 1977, one road roller worked for 116 days, another for 99 days and the third for 42 days.

The Delhi Development Authority, a local authority under the control of Central Government, had also purchased ten road rollers costing about Rs. 15 lacs after obtaining a single quotation. In this case a proposal was initiated by the Chief Engineer in August 1975 for purchase of 10 road rollers through DGS&D. On this the then Finance Member, Shri Manjit Singh, asked for justification based on work load data. This proposal was not pursued. However, in December 1975, the Chief Engineer made a new proposal for a Hot Mix Plant unit including four road rollers of Jessop make and this was ultimately sanctioned by Delhi Administration in

February 1977. In July 1976, another proposal was made by the new Chief Engineer, Mr. Telang for 6 road rollers in addition to the earlier proposal for four which was then pending approval of the Delhi Administration. Thus, a total number of ten road rollers were to be purchased. On the suggestion of Shri Jag Mohan, the then Vice-Chairman, the Chief Engineer obtained a quotation from Maruti Heavy Vehicles Private Limited. This along with a letter of from Greaves Cotton of January 1976 referring to the price Jessop road rollers obtained for preparation of estimate to the Delhi Administration was also put up. No justification based on work load data was furnished. The accounts officer who examined the proposal raised the points that open tenders should have been called for and the question of justification on work load data be considered. But the Works Advisory Board with Vice-Chairman Shri Jag Mohan, the Finance Member Shri Kawaljit Singh, and the Engineer Member R. S. Gupta decided in the meeting held on July 20, 1976 to buy 10 Maruti Road Rollers.

For the procurement of these road rollers —

1. Only the approval of the Vice-Chairman as member of the Works Advisory Board was obtained whereas under the rules the sanction of the Authority is necessary.
2. The later approval of Delhi Administration in February 1977 for four road rollers was specifically for those of Jessop make.
3. The purchase was not routed through the DGS&D as required under the rules, the road rollers being a centralised item, when the proposal was first mooted in August 1975 the intention was to place the indent on DGS&D.
4. Road Roller is an item covered by Indian Standards Specification of 1969 (No. IS 5502/69). According to the rules incorporated in the Central Public Works Department (CPWD) Manual Vol. II ISI specification is to be adopted for tender inquiry. This rule was not observed in the present case. The Chief Engineer, Shri Telang, has in his statement expressed his total ignorance of the existence of such specifications.
5. Purchase of ten road rollers involving an outlay of about Rs. 15 lacs was approved by the Works Advisory Body comprising three members namely Shri Jagmohan, Vice-Chairman, Shri Kawaljit Singh, Finance Member and Shri R. S. Gupta, Engineer Member, without calling tenders. Only a single quotation received from Jalan Modi Automobiles for Maruti road rollers was considered alongwith a letter of another party which had been obtained 6 months earlier for framing the estimate. Even a limited tender inquiry to several manufacturers of repute or their sole agents was

not made. Garden Reach Workshop, a public sector unit, had indicated their willingness to supply road rollers as per the list price. This fact was taken note of by the Chief Engineer in his note dated July 9, 1976 but this offer was not pursued despite reminders from the Garden Reach Workshop. Shri R. S. Gupta who was Engineer Member of the DDA during the period has explained in his statement how the Maruti offer was obtained. He has said "Prior to WAB meeting after 16-7-1976 I do not remember to have discussed this proposal with the C.E. or the F.M. The question of requirement and purchase of road rollers was discussed at the time of inspection of works of the V. C. when the Vice-Chairman (Shri Jagmohan), myself and Chief Engineer and many other officers were present. The road works were being got done by DDA employing NDMC as our Agency. We were paying hire charge for their plant and machinery which included the road rollers. This inspection took place sometime before the proposal was sent by the C.E. During discussions, Rollers of Maruti Make were working on behalf of NDMC, it was reported by the NDMC Engineer that their performance was satisfactory. Vice-Chairman (Shri Jagmohan), therefore, asked us to get quotations for Maruti Road Rollers as well."... "During inspection/discussions the Vice-Chairman had asked the Engineers to collect quotations from Maruti Road Rollers as well, since the officers had already contacted DGS&D to know about the running rate contract etc. and had also made enquiries from other manufacturers of road rollers. This note of C.E. dated 13th July does not indicate whether any specification has been drawn for the road rollers to be procured or any open tenders were called for. I also see that the open tenders have not been called for. I find from the C.E.'s note that two quotations were enclosed to his note. One quotation was from Jalan Modi for Maruti road rollers of 7th July, 1976 and the other was of Greaves Cotton for Jessop road rollers dated 16th January, 1976. It has been mentioned in the note that the offer of Jessop had expired on March 1976. The C.E. also reported that M/s Garden Reach Company have indicated that they do not hold DGS&D rate contract and will be willing to supply road rollers at list prices. The note does not indicate the date of the letter of G.R.W."

The Maruti road rollers were procured between August 1976 to October 1976. Prior to this no effort was made by the Chief Engineer or any one else to check on the quality, reliability or capacity or performance with actual users. Reliance was placed on the three certificates of Shri V. P. Chetal, Shri A. K. Bhat and Superintendent Engineer (Haryana).

The rules prescribe that even if such equipment are bought direct, inspection should, as far as possible, be entrusted to DGS&D. DDA also did not have any inspection facility or competent technical manpower for such inspection. Still inspection was not entrusted to DGS&D and the only inspection conducted consisted of the road rollers being driven by road from the premises of Maruti Heavy Vehicles Private Limited to the DDA workshop by Maruti Heavy Vehicles' drivers. At the time of delivery no inspection was done to ascertain the age of the engines. The Executive Engineer has since confirmed that they were of 1966 make.

Most of the road rollers started being used more than two months after receipt and the average performance ratio has been about 25 per cent. After purchase several defects were noticed including frequent breakage of axles, defects in brake system and steering, engine becoming hot, and consequently the road rollers have been lying idle for long periods.

In the case of the Engineering Projects (India) Limited (EPI), the estimate for Kuwait housing project provided for 4 8/10 tonnes road rollers. In August 1976, the requirement for this equipment was raised to 6 for reasons not on record. The tender committee decided on August 21, 1976 to limit the procurement to 3 units for the present. In September 1976, however, it was decided to buy all the six units from Maruti Heavy Vehicles on the ground of exigency of work. Actually in Kuwait, more than 3 road rollers were used at a time only for 6 days out of 373 days. According to Shri S. K. Kapoor, Deputy Project Manager, Kuwait, "two or three road rollers in working condition would be able to meet the demand of our project in Kuwait", as in view of the sandy soil conditions "the use of Maruti road rollers is very limited".

Rules of the company permit limited tenders being obtained from reputed firms registered with DGS&D/EPI etc. after drawing up proper specifications, the number and names of parties being decided by a specified committee. The Deputy Purchase Manager, Shri V. K. Jain himself called for quotations from Jessop, Marshall and Sons (no more in the line of production), Heatley and Gresham (for Sayaji road rollers) and Maruti Heavy Vehicles Private Limited only. ISI specifications were not mentioned. Registration of Maruti Heavy Vehicles with DGS&D was not checked though the DGS&D list then available did not contain the name of Maruti Heavy Vehicles. No inquiry was made from Garden Reach Workshop. Heatley and Gresham requested for extension of time by four days but without waiting for their tender, the tender committee decided to purchase 3 Maruti road rollers as being cheaper than the only other available offer of Jessop. Later the number was raised to 6.

Preliminary inspection by EPI officers in November 1976 showed many defects in Maruti rollers. Shri Thandani, Adviser Purchase, suggested inspection by DGS&D. He also suggested, in the alternative, inspection by General Superintendence and Co. appointed in December 1976 as EPI's exclusive inspection

agency. This agency had, in 1967, surveyed the stock of engines etc. of Agrind Fabricators Limited most of which were later fitted to Maruti road rollers. Shri A. K. Bhat of Maruti Heavy Vehicles objected to inspection by this agency and inspection was eventually dispensed with. In his statement Shri Thandani has admitted that except in the case of Maruti road rollers all other items for the Kuwait project were inspected either by the DGS&D or General Superintendence & Co.

Oil and Natural Gas Commission had also purchased 6 road rollers from Maruti Heavy Vehicles Private Limited. This case has not been looked into by the Commission as a criminal case has already been instituted against Shri Sanjay Gandhi and certain other persons in respect of this transaction and the matter is subjudice.

Summary of Special Features.—On the basis of such evidence as is available in the files, supplemented by the testimony of the witnesses who in their official capacity have dealt with those files at various stages, the following significant facts have come to light :

1. Shri T. A. Pai then Minister of Industries and Civil Supplies in the Government of India had addressed d.o. letters to the Chief Ministers of State Governments in July 1975 and again in August 1976 requesting them to place orders for road rollers on Jessops and company, a public sector undertaking, in order to clear the stock accumulated with the company. Jessop road rollers are of reputed make and conform to ISI specifications. They are fitted with M. S. rolls which give better performance.
2. Jessops rollers are normally available on DGS&D rate contract. In 1975-76 period this rate contract was somehow not renewed. Non-renewal of the DGS&D rate contract for Jessop rollers has been mentioned as the reason for inviting direct quotations by most of the purchasing organisations.
3. Garden Reach Workshop (GRW) another public sector unit, is manufacturing road rollers of a reputed make, and conforming to ISI specifications. These road rollers are fitted with cast iron rolls. Under the Government of India orders then in force, the GRW was entitled to a 10% price preference when competitive tenders were invited.
4. Garden Reach Workshop sent their quotations in several cases in response to tender inquiries and the price quoted by them was generally lower than that quoted for Maruti rollers. No business could however be secured by them in these cases. Irrigation Department of Government of Karnataka did not accept their offer. Central Coal field (a public sector unit) did not accept their tender even though it was specifically

- brought to their notice that GRW was entitled to 10% price preference also. The Municipal Corporation of Delhi ignored the tender of GRW totally for not furnishing earnest money, a requirement which can be waived in the case a supplier registered with DGS&D. The Delhi Development Authority did not invite any tender from GRW even when the unit had expressed its readiness to supply road rollers.
5. The relative rules of the Government of India for regulating purchase of stores (which are applicable to most organisations like MCD, DDA, NDMC etc.) have categorised road rollers as 'a centralised item' to be procured only through the DGS&D. All of them, however, procured the Maruti road rollers direct, though in the earlier stages of consideration of the proposals, purchase through the agency of DGS&D was specifically envisaged. In Delhi Municipal Corporation the requisite amount for giving advance deposit was also sanctioned and drawn before a fresh decision to go in for direct purchase was taken.
 6. The relative rules also prescribe that even in cases where direct procurement is resorted to, inspection of the equipment should, as far as practicable, be entrusted to the Inspection Wing of the DGS&D. This was ignored by almost all the organisations who bought Maruti road rollers. In the Delhi Municipal Corporation, the draft tender conditions required the material to be inspected by the DGS&D. But this was deleted in the final tender notice by the Executive Engineer. In the case of Central Coalfields, the purchase order prescribed pre-delivery inspection by DGS&D. But before this could be undertaken, supply was completed on telegraphic instructions from the Chief Engineer and inspection by DGS&D was later waived. In the Engineering Projects (India) Limited, despite defects appearing during preliminary inspection and despite a specific suggestion by the Adviser, Purchase, Shri Thandani, Inspection by DGS&D was ignored. Inspection by the contracted inspecting agency, General Superintendence & Co., who in 1967 surveyed the stock of engines, transmission etc. of Agrind Fabricators Limited most of which were later fitted to Maruti road rollers, was also dispensed with, and the road rollers supplied by Maruti Heavy Vehicles Private Limited were shipped to Kuwait without any inspection. In the case of DDA, inspection by DGS&D was not resorted to though DDA itself had no arrangement for carrying it out.
 7. The ISI had drawn up standard specifications for road rollers. Maruti road rollers did not conform to the ISI specifications.
 8. These rollers had only three forward and one reverse speed but according to the standard specifications the reverse and forward speeds should be at least three each.
 8. Orders for supply of Maruti road rollers were placed without insisting on trial runs in a single case. Certificates issued by Shri V. P. Chetal, Shri A. K. Bhat and the Superintending Engineer, Government of Haryana, were relied upon as technical proof of suitability of the road rollers without verifying whether the certificates had been issued by these persons in their official capacity after carrying out the prescribed tests (including gradient test) and/or after actual use of the equipment. Shri Chetal has stated that he had issued the certificate in his personal capacity.
 9. The engines, power packs and some other components used in the assembly of Maruti road rollers were purchased mainly from the Punjab National Bank in an auction. These component originally belonged to a manufacturing unit, Agrind Fabricators Limited, a company which had gone into liquidation, and the court had entrusted the old stock of engines and other components, imported in 1966, to the bank for disposal.
 10. The imported engines used by Maruti Heavy Vehicles in their road rollers were out of stock sold by Punjab National Bank. The engine numbers in several cases have been examined and found to tally with those available in bank records. The engine manufacturer's test certificates were not furnished to the buyers of Maruti road rollers,
 11. Maruti road rollers had defective brakes and the steering system was also faulty. Maruti rollers had not been subjected to gradient tests. Fitness certificates for Maruti rollers were obtained from Shri V. P. Chetal and Shri A. K. Bhat in their personal capacity but utilised as official documents. The prescribed tests were not carried out before the fitness certificates were issued by them. A certificate of fitness was issued by Superintending Engineer, PWD, Haryana, for Maruti rollers at the instance of the then Chief Minister, Haryana.
 12. Maruti Heavy Vehicles Private Limited were liable to pay excise duty from March 1, 1975 on the road rollers assembled by them whereas this duty has been paid by them to the Central Government only from April 1, 1976.
 13. Adverse performance reports have been received from certain users. In some cases road rollers purchased from Maruti Heavy Vehicles have remained idle for long

periods. Various technical defects had been reported by Himachal Pradesh, Karnataka, Rajasthan. As against this, the EPI, NOIDA, NDMC, DMC have made no such complaint.

14. R. K. Khadilkar, then Minister for Supply, had put pressure on the officers of DGS&D for granting provisional registration to Maruti Heavy Vehicles as approved supplier of road rollers even though the technical report was adverse.

On the basis of the above facts it is clear that undue favour was shown by the various purchasing Departments and organisations in placing orders on Jalan Modi Automobiles for supply of road rollers of Maruti make and allowing in some cases favourable terms of payment, dispensing with inspection before delivery, and failing to take appropriate action for having the defects in the units rectified. The requirement for road rollers was often inflated to increase the sale of Maruti rollers.

BUS BODY BUILDING CONTRACT CASES

Bus body fabrication contracts constitute the next important group of cases. The first undertaking to be approached by Maruti Limited, for bus body building work was the Haryana State Road Transport Corporation (HSRTC). The dealings of that corporation with Maruti were specifically excluded from the Terms of Reference of this commission as another Commission of Inquiry headed by Shri Jaganmohan Reddy was looking into them. The other Transport Corporations which gave business to Maruti were Rajasthan State Road Transport Corporation (RSRTC), Delhi Transport Corporation (DTC), Madhya Pradesh State Road Transport Corporation (MPSRTC) and Uttar Pradesh State Road Transport Corporation (UPSRTC), in that order. The DTC case having been investigated already by the Central Bureau of Investigation (CBI), this commission has not looked into it. The bus body building contracts secured by Maruti Limited, from the remaining three Transport Corporations, namely, RSRTC, MPSRTC and UPSRTC have distinct features of their own in the mode of entertainment of the offer or tender, the accommodation in numbers and also in the fixation of rates. All the three corporations are constituted under section 3 of the Road Transport Corporation Act, 1950.

Rajasthan Bus body Fabrication contract with Maruti

The RSRTC had as many as 152 bus bodies fabricated by Maruti Limited.—3 on Leyland Comet, 75 on Leyland Viking and 74 on Tata chassis, during the period September 1975 to March 1977. From August 1975, when the order for construction of the first prototype bus body was given to Maruti, till March 31, 1977, the total number of bus bodies constructed for the corporation by all the builders was 547. Various types of bus bodies were built by Maruti—three units on Leyland Comet were of RSRTC old model, while 44 units were on Leyland Viking chassis of DTC city

type and 21 of DTC Mofussil type. 10 of the Leyland Viking chassis had RSRTC new Mofussil type bodies. All the 74 Tata chassis had RSRTC Mofussil new design.

Maruti Limited first came into picture for bus body building work for RSRTC in June 1975. The RSRTC had floated a tender for the fabrication of 300 bus bodies (for RSRTC old model) on March 21, 1975. The date originally fixed for opening of the tenders was May 26, 1975 which was postponed to June 9, 1975. On June 3, 1975 Maruti applied for the tender documents and soon thereafter filed their tender. The tenders were opened on June 9, but further consideration of the offers received was held up as the then Chief Mechanical Engineer, Shri G. N. Chakrapani, was on leave. After his return from leave in July 1975, Shri G. N. Chakrapani recommended negotiations with the parties for bringing down their rates as the quoted rates were on the high side compared with the previous years' negotiated rates of Rs. 34,000 per unit for Leyland and Rs. 32,500 for Tata and other model chassis. In the meantime, there was change in the incumbency of the office of Chairman of the RSRTC. The new Chairman, Shri Mohinder Singh, took over on July 14, 1975. He gave a direction that a meeting of the officials should precede the negotiations with the parties and fixed this meeting on July 19. The same day Shri Kalra, an employee of Maruti Limited met Shri Mohinder Singh and had discussions with him regarding the bus body fabrication work. On August 5 Shri Kalra wrote a letter to the corporation seeking allotment of one chassis to Maruti for fabrication of prototype. In this letter he referred to the discussions he had with Shri Mohinder Singh. Comments of the Deputy General Manager (Accounts) were obtained on this letter and the Chief Mechanical Engineer was not consulted. On the basis of the note recorded by the Deputy General Manager (Accounts), the Chairman, Shri Mohinder Singh, ordered the release of one chassis to Maruti Limited for fabrication of prototype on the same terms and conditions on which other body builders were making bodies for this corporation. Since the new tender for 1975-76 had not been finalised till then, the release of this chassis to the builder (Maruti Limited) in August 1975 had to be reckoned against the 1974-75 tender which was then in operation and the same rate was adopted in this case also. Maruti was not one of the parties who had participated in the 1974-75 tender. The prototype fabricated by Maruti was delivered to RSRTC on January 2, 1976. On the same day, a further allotment of 2 more chassis was made to Maruti Limited on the same rate as on the earlier occasion, in pursuance of their request contained in the letter dated December 6, 1975. In this letter it had been claimed that the prototype job had already been completed to the satisfaction of the Inspectorate of RSRTC. According to the evidence adduced before the commission, work on the prototype was not completed till December 6, 1975. The allotment of two chassis on January 2, 1976 was also against the 1974-75 tender which was in operation as the tender for 1975-76 had yet to be finalised. Approval of the corporation was not obtained for the allotments which were made by the Chairman. According

to the delegation of financial powers contained in Order No. F. 4(142)/Accounts/Rules/65-66/7790 dated January 25, 1974, all powers regarding purchases are subject to the usual Tender Rate and Purchase Policy of the corporation and in his deposition before the commission, Shri Mohinder Singh eventually conceded that "tender system and tender rules" could be applicable "to the bus body contracts". While the body fabrication work on the two chassis allotted to Maruti on January 2, 1976 was under way, Shri P. R. Subramanian, Chief Mechanical Engineer, who had in the meantime, left Delhi Transport Corporation had joined RSRTC. He put up a note to the Chairman on February 5, 1976 giving his assessment of the facilities available with Maruti Limited for bus body building work. Shri Mohinder Singh took a decision on this note on February 6: "It appears from the report of the CME that M/s Maruti Limited, are in a good position to make bus bodies. Accordingly, we could also give them a certain number of chassis for building bus bodies. In the beginning we should keep it restricted to the Mofussil bus bodies and not semi-deluxe or deluxe types". Following this decision a letter was issued to Maruti Limited from RSRTC on the same day, February 6, informing them that RSRTC was prepared to give them chassis at the rate of 10 per month for the year. Shri P. R. Subramanian has said in his statement that "It came to be known for certain that towards the end of 1975 that M/s Maruti was entering the field of bus body building in a big way, evidently after their failure in cheap car production and Haryana Road Transport Corporation had already placed orders and allotted chassis in fairly large numbers.... The emergency atmosphere was very much felt and the general feeling was that RSRTC would have to cooperate with M/s Maruti Limited, to the maximum extent. It was also known that M/s Maruti's case had the backing of Government of Rajasthan".

Between the 8th and 17th April 1976, a further allotment of 15 chassis was made to Maruti Limited. Shri P. R. Subramanian's version is that about the time of finalisation of the tender for 65 bodies, Shri Pant, General Manager of Maruti Limited, "was keen on taking up the construction work of DTC city type buses in as much as, according to him, they were organised for this work and wanted that they should be given chassis for this purpose". According to Shri P. R. Subramanian, he had communicated this request of Shri Pant to the Chairman, Shri Mohinder Singh, "who told me that he will discuss the matter with the Minister and then take a decision. It was in my knowledge that in all important body building matters pertaining to Maruti, the Chairman used to discuss the matter first with the Transport Minister, Shri Chhagani and Chief Minister Shri Harideo Joshi before taking decisions". Shri P. R. Subramanian states that in this case "after discussions the Chairman decided to allot 15 chassis to Maruti Ltd., and 5 to Delhi Automobiles". Shri Mohinder Singh has also admitted this. He has stated: "In view of the known prominence of M/s Maruti Ltd. dealings of the Rajasthan State Road Transport Corporation with that firm were,

from time to time, subject of discussion with the concerned Transport Ministers (Shri Mohan Chhagani upto April 16, 1976 and Shri Ram Narain Choudhary thereafter), and with the Chief Minister Shri Harideo Joshi. The Transport Minister and the Chief Minister were of the view that the firm may be accommodated in respect of orders. Maruti Limited was keen for a regular monthly allotment. The request of Maruti Limited for an allotment of chassis on regular basis was first discussed with the Transport Minister Shri Chhagani near about the close of January 1976. Again towards the end of 1976, Maruti Limited wanted to know as to what business it could expect from RSRTC during the forthcoming year of 1977. It was interested in 40 chassis every time more so because of their surplus capacity, with the large U.P. Roadways orders nearing completion. Several discussions were held with them including two meetings at Maruti Limited in December 1976, and January 1977. The matter was discussed by me with the Transport Minister and the Chief Minister. I was advised by them that RSRTC need not enter into any commitment with Maruti Ltd. on this scale, but its request for larger allotment be accommodated".

Fabrication of 29 more bus bodies according to the DTC city model was entrusted by RSRTC to Maruti later in the year. The allotment and release of chassis was as follows:

August 1976	.. 10
October 1976	.. 9
December 1976	.. 10

No tenders were invited for fabrication of bus bodies of the DTC type before giving the job to Maruti Limited, and no prior approval of the corporation was obtained for these allotments. In his statement, Shri Mohinder Singh has given the following explanation for this deal:

"Having found that Government of India was financing a maximum of 15 Leyland buses and no more, we at the official level reviewed the whole situation probably in the last days of March 1976, or in the first days of April 1976. It was proposed that we may have a minimum of 20 new buses to make a viable unit and that meant putting 5 from our own resources....CME who had come from DTC advised that as RSRTC had no experience of designing and building specialised city buses, it may adopt in toto the DTC city design which he considered as one of the best in India and more suited to our climatic conditions....CME advised that RSRTC may get these 20 built on the same rates as DTC which had an existing tendered rate of Rs. 40,700 for Leyland Comet and was negotiating for the additional amount to be paid for the Viking overhang. Shri Subramanian considered Rs. 40,700 a very attractive rate....CME's advice was accepted and on his informing that Maruti Limited and Delhi Automobiles were building such buses for DTC, 15 were allotted to Maruti and 5 to Delhi Automobiles. The decision taken at the official level was put up to the corporation in the forthcoming meeting on

26th April 1976". The agenda note on the subject not only recommended adoption of the same design as developed by the DTC and payment of the same rate as was to be fixed by DTC to the body builders but a specific recommendation was also made for entrustment of the work to Maruti Limited and Delhi Automobiles only because they had specialised in the fabrication of DTC type bodies. The agenda note did not mention that two Jaipur firms Azad Body Builders and Kamal and Co., who had been having dealings with RSRTC for a long time, had also handled bus body building work for DTC. Shri Mohinder Singh has admitted this omission, but says, "I do not remember whether Shri Subramanian mentioned that the firms of Azad and Kamal of Jaipur were also doing this work. If that had been brought to my notice it is quite possible that these may also have been allotted some. Incidentally the CME has always been favouring fewest possible body builders for specialised bodies on the grounds of standardisation".

On June 7 and July 31, 1976 Maruti Limited were entrusted with the additional chassis, 10 each time, for the fabrication of DTC Mofussil design on Leyland Viking chassis without observing the tender procedure. This decision was taken at the level of the Chairman, Shri Mohinder Singh. These chassis were released from the lot of 65 chassis included in the new tender for 1975-76 for fabrication of RSRTC old Mofussil bodies but the allotment to Maruti out of this lot was for DTC Mofussil design, at rates yet to be fixed by DTC themselves, instead of the RSRTC old Mofussil bodies. By that time DTC had not got any Mofussil design bodies built on their Leyland Viking chassis themselves or by Maruti Limited. On June 18, 1976 a meeting was held between Chairman Mohinder Singh and Chief Mechanical Engineer Shri P. R. Subramanian with representatives of 7 firms who had responded to the tender notice when the issue of fabrication of DTC Mofussil type bus bodies was decided upon. Fabrication for DTC Mofussil bodies was canvassed at this meeting on the ground that delivery of chassis was expected soon, being already in line, and floating of a fresh tender for the fabrication of new design bodies was not advisable as that would mean delay. It was specifically mentioned in the minutes that 10 chassis already released to Maruti and 5 to Delhi Automobiles should have Mofussil design bodies.

Maruti also built a DTC Mofussil body on one chassis which was the substitute for another chassis out of the first lot of Viking chassis sent direct to them by Rajesh Motors on September 5, 1976. In fact they were expected to fabricate DTC city type on this unit. This change was, however, condoned by RSRTC.

Work orders subsequently issued in respect of 20 chassis released to Maruti on June 7 and July 3, 1976 mention the tender for 65 bodies of RSRTC old Mofussil design and the negotiations held on April 5, 1976. Thus, against the tender for RSRTC old Mofussil design, allotments were made for body building work for DTC Mofussil type bodies and no fresh tenders were invited for this purpose.

Tenders were invited for body building work on 100 Tata chassis for a new model developed by RSRTC in July 1976. The date fixed for opening the tenders was July 31, 1976. 12 parties including Maruti Limited and Delhi Automobiles sent tenders. Identical rates of Rs. 44,500 per unit were quoted by Maruti and Delhi Automobiles and these were the highest. On the basis of costing calculation done by RSRTC, the cost of fabrication for this bus body design on Tata chassis was calculated as Rs. 40,000. This figure was higher than the lowest quotation received from one of the tendering firms, M/s Auto Body Centre which had quoted only Rs. 34,240. This lower offer was rejected by Shri P. R. Subramanian on the ground of low capacity and workmanship of the firm and also for the sake of standardisation. The matter was subsequently taken up to the Board on August 20, 1976 and the Corporation's approval obtained. In the provisional allotments of chassis proposed under the tender, the name of Maruti was not included till December 12, 1976. However, a revised allotment was proposed by Shri P. R. Subramanian on December 25 in which 30 chassis were earmarked for Maruti Limited. Subramanian has admitted that this was done in deference to the wishes of Maruti Limited conveyed orally for increased allotment of Tata vehicles. In subsequent letters sent by Maruti on January 7 and 12, 1977 they expressed preference to have 3/4th Tata and 1/4th Leyland for the allotment to be made, and also desired to have monthly allotment of 40 chassis on regular basis. Shri P. R. Subramanian has stated that the Chairman, Shri Mohinder Singh had discussions on this issue with Shri Harideo Joshi, the then Chief Minister and Shri R. C. Choudhary, the then Minister for Transport and as a result of this discussion Maruti were allotted 30 Tata chassis in January 1977, 20 in February 1977 and 24 in March 1977 at the agreed rate of Rs. 40,000.

RSRTC floated a tender for fabrication of 100 bodies of their new Mofussil design on Leyland Viking which design had been finalised by them towards the end of November 1976. 15 firms submitted their tenders, including Maruti and Delhi Automobiles. Maruti Limited and Delhi Automobiles had quoted identical rates of Rs. 46,500 plus taxes. According to the costing done at RSRTC, the cost per unit for this type of body was worked out at Rs. 44,500. In his note on the opening of tenders on December 7, 1976, Shri P. R. Subramanian recommended that the allotment should be restricted to 8 parties, 6 of Jaipur and 2 of Delhi. The noting of Shri Mohinder Singh was in favour of allotting the maximum number to Maruti Limited. In the notional allotment made on the first lot of 22 chassis, the name of Maruti Limited was, however not mentioned. But 10 Leyland Viking chassis were allotted to Maruti Limited against the tender in January 1977 at the agreed rate of Rs. 44,500 excluding taxes.

RSRTC while allotting 15 chassis of Leyland Viking for fabrication of DTC city type to Maruti Limited had, on the assumption that the rate of 40,700 fixed by DTC for DTC city type on Leyland Come/Vehicles was an attractive rate and that the extra amount

required for Leyland Viking would work out to only Rs. 2,700, indicated the rate as Rs. 43,400 in their belated work order. Maruti took up the matter with the DTC and in their letter dated May 8, 1976 maintained that the rate fixed by DTC for DTC city type on Leyland Viking was Rs. 45,000. They stuck to this as far as DTC city type body on Leyland Viking is concerned. But, when it came to the question of DTC Mofussil type they quoted the DTC reference to show that the rate for DTC Mofussil type on Leyland Comet was Rs. 48,700. This was according to DTC's confidential letter dated July 23, 1973, a copy of which was handed over to Shri P. R. Subramanian by Maruti's representative. Subsequently, in their letter dated August 3, 1976 Maruti claimed Rs. 48,500 for DTC Mofussil type on Leyland Comet and Rs. 52,800 for DTC Mofussil type on Leyland Viking. On September 2, 1976, they raised the rate of DTC Mofussil type on Leyland Comet to Rs. 53,000. This was also confirmed by DTC in their letter dated November 2, 1976.

The RSRTC which were advancing only Rs. 40,000 provisionally for each vehicle delivered to Maruti Limited took up the matter for final settlement of the bills on January 7, 1977 on a note by Shri P. R. Subramanian. His recommendation was to accept and pay Maruti Limited at Rs. 53,000 for Leyland Viking, deducting Rs. 3,320 being the difference in using M. S. flooring instead of aluminium flooring. Shri Johri who was the Chief Accounts Officer at that time pointed out the incongruity in this and recommend that payment should be only on the basis of the rate fixed for RSRTC new model on Leyland Viking i.e. Rs. 44,500. He also pointed out that inasmuch as no tender was floated for the work of such magnitude, corporation's prior approval or at least *ex post facto* approval was necessary. Chairman Shri Mohinder Singh decided to have the *ex post facto* approval of the corporation for the rate recommended by Shri P. R. Subramanian, Chief Mechanical Engineer. However, on February 26, 1977—the day of the meeting—a news item appeared in the Indian Express referring to the malpractices resorted to in fixing boosted up rate by DTC for Maruti Limited by no less a person than an ex-Chairman and a member of DTC. A revised agenda note recommending a much reduced rate of Rs. 46,990 was thereafter put up to the corporation and this was approved. The original agenda did not mention the objections raised by Shri Johri nor did the revised agenda refer to the news item.

Investigation has revealed that except in the case of 10 bodies got built on Leyland Viking chassis on RSRTC new Mofussil design in January 1977, and on 74 Tata chassis according to the RSRTC new Mofussil design in the months of January, February and March 1977, where allotments were covered by the regular tender, the allotment of 68 bus bodies in the case of other types in favour of Maruti Limited was made without a tender or even a limited tender enquiry. Nor was the approval of the corporation obtained which was essential as the firm was being

accommodated outside the prevailing tender. Fuller details of the various transactions between Maruti and RSRTC can be ascertained from the statement of facts included in the appendix to this report.

Shri Harideo Joshi, former Chief Minister, Rajasthan, and Shri Mohan Lal Chhagani and Shri Ram Narayan Chaudhary, former Transport Ministers of Rajasthan have totally denied their involvement in the dealings between Maruti Limited and the Rajasthan State Road Transport Corporation. In his affidavit Shri Chhagani says "From time to time informal discussions and consultations used to be held by and between the Chairman of the State Corporation and myself. The said discussion and consultations were generally on policy matters.... It was very rarely that any specific detail as to the day to day functioning of the corporation was ever gone into in depth.... the corporation was an autonomous corporation and that all matters pertaining to day to day administration were looked after by the officers concerned and the ultimate decisions relating thereto were exclusively the privilege of the Board of Directors of the corporation. At no stage either the Government or myself as the Minister were involved in such specific decisions being taken by the Board or in implementation thereof by the officers concerned.... As far as I recollect, it was only once that the Chairman of the corporation had mentioned to me the facts about Maruti Ltd. having a large capacity and Plant and their performance and that it would be desirable if some orders are also given to Maruti Ltd. I recollect having told the Chairman that there was no harm in doing it provided there was no detriment to the interests of the corporation or to the local body manufacturers and if placing of the orders with Maruti can help expeditious delivery to cope with the requirements of the Corporation". Shri R. N. Chaudhary has denied that he directed the Chairman or any official of the Rajasthan State Road Transport Corporation to accommodate Maruti Limited in the matter of placing of orders by the Corporation for the construction of bus bodies and thereby giving pecuniary benefit to Maruti Limited. He says that he did not discuss this matter with the Chairman or any other official and that he never asked them to ensure preferential treatment for Maruti Limited. Shri Harideo Joshi, former Chief Minister, Rajasthan, has stated that "except for cursory reference which the then Chairman, RSRTC had once, there had been no discussion, meetings" with him "nor any paper was put up" before him in this connection. The testimony of the witnesses examined before the Commission and the material furnished in the affidavits filed before the Commission was sought to be contradicted by a denial.

On a consideration of the available records and evidence it is quite clear that undue favour was shown to Maruti Limited in the placement of orders for bus body fabrication work, allotment of chassis from time to time and in agreeing to pay for the DTC city and Mofussil type bodies at the same rate which was settled by Maruti with DTC without observing the normal financial procedure.

Madhya Pradesh Bus Bodies Building Contracts

Madhya Pradesh State Road Transport Corporation (MPSRTC) entered into two contracts with Maruti Limited for bus body building work. In 1975, the fleet position of the MPSRTC is claimed to have been very bad. About 391 vehicles had become overaged according to the prescribed norms of 10 years for Leyland vehicles and 7 years for TMB vehicles and these were due for replacement during 1976. The cost of operation of the fleet had gone up, due to the bad condition of the vehicles and this had an adverse effect on the income of the corporation. The corporation was also faced with demands for improvement in fleet, expansion of bus services, nationalisation of road transport on new routes and also in uncovered areas along the existing routes, etc. As it was felt that the business of the corporation could no longer be carried on economically and efficiently with an out-moded and depleted fleet, arrangements were made with the Punjab National Bank and IDBI and the Provident Investment Company for loans to the extent of Rs. 327.09 lacs. The financial position of the corporation at the end of the financial year 1974-75 was not sound as the accumulated losses had gone up to Rs. 885.07 lacs. The State Government had advanced a loan of Rs. 50 lacs to the corporation in March 1974 and a further loan of Rs. 50 lacs was advanced by it to the corporation in March 1975, to be adjusted against capital contribution for the next year. Even the loans from the IDBI and the Punjab National Bank were secured on the strength of guarantee from the State Government. While the question of replacement of the old vehicles was still under consideration, a suggestion was made by the Chief Accounts Officer of the Corporation for hiring of privately owned vehicles as an alternative solution. However, this suggestion was not pursued.

The Madhya Pradesh State Road Transport Corporation has two departmental workshops where bus body fabrication work can be undertaken, the Central workshop at Gwalior and a workshop at Indore. The capacity of both the workshops in 1976-77 according to Shri Krishan Chandra, Chief Accounts Officer, was 275 buses in a year. The capacity of the Central workshop alone was 221 in a year.

MPSRTC had 35 bus bodies fabricated from an outside agency in 1971. This gave rise to an audit objection and in November 1974 the Vice Chairman of MPSRTC Shri Moti Lal Vohra agreeing with the view taken in audit expressed his opinion that these 35 bus bodies could have been constructed more economically at the Corporation's own workshop. In December 1974 the Board of Directors of the Corporation accepted the Audit Report and the recommendation made thereon and referred the matter to the State Government for appropriate action. Final decision in the matter was, however, taken by the State Government only in June 1978.

For road transport operations the most important period in a year when the maximum revenue can be expected is from November to June. The period from

July to October is the slack season. The MPSRTC therefore wanted to replace the over-aged vehicles during the peak period (i.e. from November to June).

On November 10, 1975 Shri R. S. Khanna, General Manager of the corporation, submitted a note in file tender No. 1/75/Tech in which he gave justification for getting bus bodies constructed through outside agencies. This note was recorded by him on the suggestion of Shri Sitaram S. Jajoo, who was then Chairman of the corporation, and in the note it is stated that the Chairman had already been informed about the position verbally by the General Manager Shri Khanna. Shri Khanna stated that new buses were required by the corporation and keeping in view the practical aspects, replacement of 230 buses would take 8 months and this meant that new buses would not be available to the corporation during the best part of the traffic period. He was of opinion that "looking to the construction capability of our workshops, it would be better if we go in for bus body building from outside agencies". This note was put up to the then Chairman Shri Sitaram S. Jajoo. Shri Jajoo marked the note to the Vice Chairman, Shri Moti Lal Vohra, for comments who in his note dated November 13, 1975 stated "the only point which is for consideration is that, if we receive 40 chassis a month, our workshops are in a position to deliver constructed bodies. If this number exceeds then only we should look to outsiders for body building". Chairman Shri Sitaram Jajoo in his note dated November 15, 1975 expressed the view that the bus body work should be done through outside agencies as the Government workshops were not in a position to achieve the target. He directed the General Manager to prepare a precis for the Board meeting. The proposal was discussed on December 1, 1975 at the 85th meeting of the Board of Directors presided over by Shri Sitaram S. Jajoo. The Board approved the proposal for fabrication of 100 bus bodies from outside agencies.

Notice inviting tenders was issued on December 3, 1975 calling for offers from outside parties for construction of 100 bus bodies. It was mentioned in the tender documents that the tender was for construction of bus bodies on TMB chassis only, though the Tender notice mentioned both Leyland and TMB chassis. Tenders from 19 parties were received by January 5, 1976 including Maruti Limited and they were opened on the same day in the presence of members of Headquarters Tender Committee (HQTC) for short. Two more tenders were received on January 6 and these were also opened in the presence of HQTC members on January 7. HQTC's function is to open the tenders received, get the comparative statement prepared and scrutinise it in a meeting. It then recommends the most eligible tender and recommends it for necessary action to the Board. Negotiations with tenderers, if considered necessary, are to be held by the HQTC.

Tenders were tabulated in the Technical Department first and then in the Accounts Department of the corporation. It was found that a valid and current Income Tax certificate had not been furnished by any party which was necessary to be submitted alongwith

tender documents according to the purchase policy rules. Maruti Limited had also not submitted the required drawings for TMB chassis. They had instead submitted drawings for bus bodies on Leyland chassis, though the tender documents specifically referred to TMB chassis only. The HQTC of the corporation considered all the tenders in its meeting held on January 9, 1976. The offer of Maruti Limited was not the lowest, six other offers being lower. These six parties were : M/s Auto Body Centre, Jaipur ; Azad Body Suppliers, Jaipur ; Rajasthan Commercial Corporation, Jaipur ; Rama Body Builders, Delhi ; Mehrotra Industries, Calcutta ; and Wadia Body Builders, Ahmedabad. These lower offers were rejected on one or more of the following grounds :

- (i) Inadequate capacity.
- (ii) Designs or drawings not supplied with the tender.
- (iii) Earnest Money not deposited.
- (iv) No experience of building bus bodies or previous performance with MPSRTC not satisfactory.
- (v) Sales Tax on higher side and insurance charges claimed as extra item.

According to Shri Krishan Chandra, Chief Accounts Officer of the Corporation, Maruti Company knew that the said tender was only for construction of bus bodies on TMB chassis and normally a tender could qualify for acceptance only if it was accompanied by the requisite drawings for the model specified in the tender documents. Nevertheless the offer of Maruti Limited was considered acceptable by the HQTC.

It was decided by the Committee to submit the case to the competent authority for consideration. A decision on the offers of other tenders was not considered necessary for the time being till the result of discussion regarding the delivery schedule etc. with Maruti Limited was finalised, as the rates of other tenderers (besides the six rejected) were on the higher side. Thereafter, the file was put up by the General Manager to the Chairman who saw it on January 9, 1976 and invited comments of the Vice Chairman, Shri Moti Lal Vohra. Shri Vohra in his note dated November 10, 1976 stated that the rates of Maruti Limited were fairly reasonable, that the tenderer had also expressed his willingness for further discussions regarding the terms, and suggested "As the HQTC has recommended the tender of M/s Maruti Ltd. of Haryana, Chairman may approve the recommendations of the HQTC in anticipation of the sanction from the Board". The file was sent to Shri Sitaram S. Jajoo, Chairman on the same day and he agreed with the note of Shri Vohra and directed that discussions with Maruti Limited be held for obtaining favourable terms. Shri Krishan Chandra, Chief Accounts Officer, has brought out the following facts in his statement : "Subsequently the Chairman, alongwith the Vice Chairman, General Manager and CWM, Shri K. N. Wahi had visited Delhi from 11th to 14th January 1976 for having discussions with Maruti Limited. In the discussions with Shri Sanjay Gandhi it was also decided

that Maruti Ltd. would supply us 50 bodies by the end of March 1976. Thereafter, the rate of supply could be more. It could be 30 bodies per month. Neither I nor any other official from the Accounts Department was associated in the negotiations with M/s Maruti Ltd. as provided in the rules". Shri R. S. Khanna, then General Manager, MPSRTC has in the course of his deposition stated : "We found that the Chairman was very much interested in one particular tender. . . . The matter was kept open. We thought that even though there is some interest shown by the Chairman the matter may be kept open because we did not know whether Maruti would be able to fully implement the order for 100 bus bodies or not The whole thing is that on the first day we visited the factory. On the second day we visited the P.M.'s residence. The meeting was held at the P.M.'s residence. And well, first Chairman and Vice Chairman entered Mr. Sanjay Gandhi's chamber and later on we followed. Well, there it was decided that a rebate of Rs. 1,000 per bus will be given and in order to tempt Mr. Sanjay Gandhi for giving the rebate, the Chairman mentioned, 'well, the order could be for 100—200'. But then I told him later on that 'NIT (notice inviting tender) for 100, I am not going to sign an order for more than 100' and, therefore, the words 'depending upon finances available' was also recorded as a conclusion of the meeting".

Reverting to the statement of Shri Krishan Chandra, he has stated that Shri R. S. Khanna put up the note to the Chairman on January 16, 1976 regarding the discussions which they had on January 13 with Shri Sanjay Gandhi. The General Manager mentioned in the last portion of the note that "the party was asked to depute some person duly authorised to sign the agreement with MPSRTC". Shri Sitaram S. Jajoo, Chairman approved the above note of the General Manager on January 16, 1976 thereby authorising placing of contract for this tender with Maruti Limited. According to Shri Krishan Chandra, rules 43 to 53 of the rules framed by the Corporation regarding tender for purchase of stores and execution of works envisaged that if negotiations were to be done, it should be done by the HQTC with all the parties as far as possible, and that this was not done in the present case when Chairman Shri Sitaram S. Jajoo visited Delhi and Gurgaon for undertaking negotiations with Maruti Limited.

In accordance with the discussions held by Shri Sitaram Jajoo the entire lot of bus bodies fabricated by Maruti Limited should have been delivered to the corporation by the end of May 1976. However, according to the available records, delivery of the bus bodies covered by this tender was completed only by September 1976.

In the note recorded by Shri R. S. Khanna it was stated that Shri S. M. Rege was due to arrive at Bhopal on January 17, 1976 for signing the agreement for Maruti Limited. He therefore desired that the draft agreement should be prepared urgently. The draft agreement was prepared and vetted by the Law Officer and the agreement was finally typed on the

same day January 17, and signed by both the parties. The matter was placed before the Board on February 27, 1976 for ratification. In the meantime in anticipation of Board's approval, 25 chassis were delivered to Maruti Limited, 15 in January 1976 and 10 upto June 14, 1976.

Shri Krishan Chandra has stated that "while placing orders on M/s. Maruti Ltd. no other officer including myself could have raised objections of any sort because the emergency was on at that time and Shri Sanjay Gandhi, as everybody knows, had attained lot of political power. Moreover, as is borne out from the notings on files, no time was given to us to study the case properly and there was constant pressure on us from the Chairman Shri Jajoo to clear this case on top priority basis without raising any objection etc. as virtually he had already agreed in Delhi to award this contract to M/s Maruti Limited.

From the records it is quite apparent that within a matter of 4 days the Chairman and the Vice-Chairman not only decided to accept the Maruti tender without placing the matter before the competent authority, which was Board, but also *suo moto* proceeded to negotiate with the contractor, and that too at his residence/factory premises".

As regards delivery of bus bodies Shri Krishan Chandra says, "in fact, no bus body was received in the month of March, '76 from Maruti Ltd. and only 33 buses arrived in April and May and the majority (67) arrived during the slack monsoon months.....there was abnormal delay in the supply of the bus bodies by Maruti Ltd. to our Corporation.....the last lot of 22 bus bodies was received from Maruti Limited by our Corporation as late as September, 1976. This means that delivery was late by about four months".

One of the conditions of the agreement was that if there was delay in supply of bus bodies, the body builder was to pay a fine of Rs. 100 per day per chassis and the penalty was to be recovered by the General Manager from the bills and the security deposit of the body builder. The tender was floated mainly with a view to getting the buses in March 1976 so that they could be utilised fully during the peak period between April and June. According to the calculations made by the Accounts Department of the corporation, there was a delay of 414 days and at the rate of Rs. 100 per vehicle per day, the quantum of penalty was worked out at Rs. 41,400. The Technical Department however revised the figure to 328 days delay and the quantum of penalty was reduced to Rs. 32,800. On November 10, 1976 a meeting of the Board was held when the Chairman raised an item outside the agenda and Resolution No. 1774 was passed whereby the Chairman was delegated the power of reducing or condoning the penalty where such penalty had fallen due. No precis was submitted at the Board meeting for this outside agenda item before the Resolution was passed and even the General Manager had not proposed this item for the Board's consideration. According to Shri R. S. Khanna, it was

Shri Sitaram Jajoo himself who had proposed this motion at the Board meeting as an outside agenda item. Subsequently, the file regarding levy of penalty of Maruti Limited was put up to Shri Jajoo who recorded a note on December 21, 1976 and after justifying the waiver of the penalty directed that the entire penalty be condoned.

Even before the last batch of buses was received by the corporation from Maruti Ltd. on June 7, 1976 Shri Jajoo was contemplating placing a repeat order for another lot of bus bodies on Maruti Ltd. without calling for fresh tenders. This was objected to by some of the officers of the corporation. Sometime in the first week of September 1976, Shri R. S. Khanna asked Shri Krishan Chandra to accompany him to see Shri S. C. Shukla, the then Chief Minister, who had called him (Shri Khanna) and the Finance Secretary Shri N. V. Krishnan for a discussion. Shri Khanna has deposed before the Commission that he and the Finance Secretary had discussions with the Chief Minister and he (Chief Minister) showed his interest in placing a further order on Maruti Ltd. This was followed by a telephonic call on September 14, 1976 from Shri Shukla to Shri Khanna asking him to send 20 chassis to Maruti Limited. However, as the first contract had just been completed, Shri Khanna put up a note on the same day mentioning that this could be done only if the Board gave its sanction or the Government issued a direction in that regard.

Thereupon the Chairman asked the General Manager to prepare a precis whereby a case could be made out for placing a further order of 100 bus bodies on Maruti Ltd. The General Manager put up a note dated September 23, 1976 which was signed by Shri Jajoo on the next day. It was to be put up before the Board meeting on October 4, 1976. The precis was finalised without getting the comments of Chief Accounts Officer. According to the provision of section 15(2) of the RTC Act 1950, all precis/proposals having financial implications should be shown to the Chief Accounts Officer for his views/comments before putting the same before the Board. In the precis it was stated *inter-alia* that it was "considered desirable to go in for outside contract as last year. M/s. Maruti Limited have expressed their willingness to construct another 100 bus bodies on the same terms and conditions as was done last year." In fact inviting of tenders may take a long time. The rules may probably require calling fresh tenders, but as time is an important factor, getting bus bodies constructed by Maruti Ltd. may be considered proper. Prices have gone up in the meantime and therefore, tenders may entail a higher cost also". Protest against this procedure was made by some of the Board members, including Shri M. N. Buch, the then Secretary, Town & Planning. As a sequel to this there was a meeting with the Chief Minister Shri S. C. Shukla on October 5, 1976. This meeting was attended by M. N. Buch, Secretary, N. V. Krishnan, Finance Secretary, R. K. Tikku, Secretary to the Chief Minister and R. S. Khanna, General Manager. In that meeting Chief Minister ordered that tenders should be floated for further 70 bus bodies to be constructed for the corporation from outside agencies. Shri Khanna then put up a note on October 6, 1976 in which he stated

inter-alia that "in order to obviate calling tenders afresh, in case requirement goes beyond 70, approval may be obtained for getting 100 bus bodies constructed from outside". Shri Khanna in his deposition before the Commission has said that it was Shri Jajoo who had ordered him to change the figure of 70 to 100.

A revised precis was prepared for floating tenders for 70—100 bus bodies which was approved by the Board on October 15, 1976. Shri Krishna Chandra in his statement says "I remember that when the Chairman was bent upon giving a repeat order to Maruti Ltd. for construction of another 100 bus bodies, the then Chief Minister Shri S. C. Shukla was also vitally interested in this matter. Some time in the first week of Sept. '76, Shri Khanna, G.M. told me that Shri Shukla, C.M. had called them *viz.* G.M. and Finance Secretary for a discussion. Shri Khanna requested me to accompany them as some matter involving financial implications was to be discussed by C.M. . . . we then, three of us, went to Vidhan Sabha. Shri Krishnan and Shri Khanna met the C.M. in his chamber. I remained outside. After the meeting Shri Khanna and Mr. Krishnan came out from the chamber. Shri Khanna told me that the C.M. wanted us to approach the nationalised banks for agreeing to reimburse the amount of loan drawn by our Corporation from the State Govt. as an interim arrangement as and when the case for term loan was finalised by the Banks where our request was pending. I also learnt from Shri Khanna that the Chief Minister was also very much interested to place an order on Maruti Ltd. for the second contract for fabrication of bus bodies"

Shri R. S. Khanna and Shri N. V. Krishnan have corroborated the statement of Shri Krishan Chandra about the meeting they had with the Chief Minister, Shri S. C. Shukla. Shri Khanna in his deposition has stated that all the time there was pressure on him from the Chairman for placing a repeat order and calling for the second tender was a mere formality as it had already been decided by the Chief Minister and the Chairman to award the second contract also to Maruti Limited. However, a notice inviting tender was issued on November 11, 1976 calling for tenders from outside agencies for construction of bus bodies on about 70—100 TMB chassis. Sealed Tenders were received from 13 parties including Maruti Limited, one of them late by one day. These were opened on December 16 and 17, 1976 in the presence of HQTC members. HQTC in its meeting held on December 20, 1976 considered the tenders. It rejected the lowest tenders, 9 in number, for reasons like non-submission of earnest money and drawings. After that the other lower tender was of M/s. Rama Body Builder, but it was not accepted as according to HQTC the terms quoted by the party were not in accordance with the terms and conditions prescribed in the tender. The HQTC found the tender of Maruti Limited in order. The tenders in respect of other parties were not considered as their rates were higher than Maruti's offer. The matter was then put up to the Board. In this case also Maruti Limited had not submitted drawings which were a pre-requisite according to the terms and conditions of the tender. According to Shri Krishan

Chandra, Chief Accounts Officer, the tender of Maruti Limited should have been rejected straightaway on this ground. In this tender also Maruti Limited had offered to negotiate; however, no negotiations were held.

A draft precis was prepared, which was seen by Chief Accounts Officer and General Manager and approved by the Chairman Shri Jajoo all on the same day, December 20, 1976. The matter was then put up before the Board in its meeting held on December 24 and the Board approved the award of this contract to Maruti Limited.

Shri Sitaram S. Jajoo, former Chairman of the MPSRTC, and Shri R. S. Shukla, former Chief Minister, have denied that any pressure was put by them on the officers in the matter of award of these contracts. Shri Jajoo has taken up the position that it was absolutely essential in the interest of the corporation to get the funds utilised and place a new fleet on the road as early as possible so that the corporation could start getting better return. There is no other evidence in rebuttal of the testimony of Krishan Chandra, R. S. Khanna and other witnesses.

On the basis of the material before the Commission, it is clear that undue favour was shown to Maruti Limited in the award of the two contracts and confining negotiation of the rate of the first contract only to them and also in condoning the delay in supplying the built vehicles.

Uttar Pradesh Bus bodies Building contracts

Uttar Pradesh State Road Transport Corporation (UPSRTC), a public undertaking established by the State Government of Uttar Pradesh under the Road Transport Corporation Act, 1950, also placed bulk orders with Maruti Limited for fabrication of bus bodies in 1976-77. The Corporation have their own Central workshop at Kanpur with a production capacity of 50 chassis per month. In December 1975, the Board had occasion to review the production capacity of the Central workshop. In the course of discussions regarding the ways and means of clearing the backlog of 250 chassis lying in the yard, it was pointed out that at the rate of 50 per month, the Central workshop could provide only 150 buses by the end of March leaving 90 chassis on which bodies had to be built only by April 1976. Since peak traffic season normally commences from April, both loss of revenue and public criticism would follow if the remaining buses were not ready before April. The idea of getting atleast 75 bus bodies built on Tata chassis through the agency of private builders was therefore mooted. In the Board Resolution No. 392/75, this suggestion was accepted by the Corporation and fabrication of bus bodies on 75 chassis through private agencies on the lowest rate accepted in 1974-75 was sanctioned. Along with this it was decided to augment capacity of the Central workshop as also to develop Allen Forest Workshop to raise its capacity for renovation work to about 50 buses per month. This matter was also discussed on December 24, 1975 at the third meeting of the Corporation. In March 1976, the position was reviewed at a meeting held in the office of the General Manager and Chairman. At this meeting

Shri K. R. Ramanujam, Deputy General Manager (Mechanical Engineering) pointed out that according to the budget provision only 400 chassis were to be purchased during the year and, therefore, tenders should be invited from private body builders for fabrication of only 400 bodies. The then General Manager and Chairman Shri Anand Swarup, however, was of the view that tenders could be invited for fabrication of 1000 bodies. Shri K. R. Ramanujam has explained that this view was taken in order to put on the road additional vehicles to meet the Kumbh Mela requirements. Based on this decision a tender was floated for fabrication of bus bodies on 1000 chassis and necessary publicity was also arranged. In response to the tender notice 31 tenders were received. The tenders were opened by the Purchase Committee in the presence of the representatives of several tenderers. Tenders invited were for fabrication of both Mofussil type and City type bus bodies on Tata LWB chassis, hill type bodies on Tata WSB chassis and Mofussil type buses on Leyland Viking LMB chassis. 18 firms had quoted lower rates than Maruti for Mofussil bus bodies on Tata chassis and in the case of City type bodies and hill type bodies on Tata chassis the number of tenders lower than that of Maruti was 14 and 4 respectively. In respect of Mofussil design on Leyland Viking, 14 tenders with rates lower than that of Maruti were received. The rates of Maruti Limited and Delhi Automobiles were not the lowest in terms of landed cost. In his statement, Shri K. R. Ramanujam has clarified that originally Maruti had quoted for bodies of one specification only and they were asked to send their rates for bodies for other specifications also, and the required information was sent by Secretary, Maruti Limited in his letter dated May 29, 1976. There were other firms also besides Maruti which had omitted to quote correctly for the different specifications and therefore a letter was sent to all the tenderers for furnishing the rates for different specifications on May 27, 1976. A tabular statement of the various rates quoted by the firms for the different bodies was prepared. Among the firms whose quotations were not lower than those of Maruti were reputed firms such as Hindustan Steel Industries, Lucknow, Utkal Automobiles, Jamshedpur, Kamal & Co., Jaipur, Azad Body Builders, Jaipur and Hyderabad Allwyn, for different types. At this juncture, Shri S. K. Modwel, the then General Manager received a telephone call from Shri A. B. Malik, Resident Commissioner, Government of Uttar Pradesh at Delhi, to the effect that the then Chief Minister, Shri N. D. Tiwari, desired that the maximum number of chassis be allotted to Maruti Limited for fabrication. Shri Modwel who was to proceed on leave from May 31, 1976 assured Shri Malik that he would look into the matter on his return from leave. Shri Modwel remained on leave upto June 20, 1976 and during this period Shri Fazle Ahmed Khan, the then Transport Commissioner held charge of the post. Shri Ramanujam in his statement has said that "on 2-6-1976 (forenoon) Shri Maheshwar Prasad, Secretary, Transport/Chairman, called me to his office and I was asked by him to go to Delhi immediately and meet the Resident Commissioner for U.P. at Delhi, Shri A. B. Malik the same evening and on the following day to meet Shri Sanjay

Gandhi for discussions regarding bus body fabrication. A little later, I was informed on phone by the Secretary that the Chief Minister (Shri N. D. Tiwari) had desired that he (the Secretary) should also go to Delhi and meet Shri Sanjay Gandhi. Accordingly myself and the Secretary, Transport, both travelled by the same plane on 2-6-1976 afternoon from Lucknow to Delhi and in the evening met Shri Malik at U.P. Niwas. The following morning we again met at U.P. Niwas. Shri Fazle Ahmed who was the acting G.M. in the absence of Shri S. K. Modwel on leave, also joined us at U.P. Niwas on 3-6-76. We, all the four of us, Shri A. B. Malik, Shri Fazle Ahmed, Shri Maheshwar Prasad, the Transport Secretary and myself went to Maruti Ltd. at Gurgaon at 9.00 A.M. It may be mentioned that the previous evening on 2-6-76 when we met Shri Malik, he had indicated that discussions with Shri Sanjay Gandhi would be, more or less, one sided and, therefore, one has to be cautious while conversing with him. So it was decided that only the Secretary Shri Maheshwar Prasad would conduct the discussions, being the seniormost officer in the group. We met Shri Sanjay Gandhi in the office of the G.M. Shri Pant, Maruti Ltd. During the discussions, on behalf of Maruti, Shri Rège and Shri Pant were also present besides Shri Sanjay Gandhi. At the outset Shri Sanjay Gandhi asked us as to how we had come to visit Maruti. Shri Maheshwar Prasad expressed that we were directed by the Chief Minister to go and meet him (Shri Sanjay Gandhi) as he (Shri Sanjay Gandhi) had desired to discuss on bus body fabrication tender. Shri Sanjay Gandhi said that he had nothing to discuss. He mentioned that regarding bus body fabrication he had seen that tender was issued by UPSRTC and Maruti Ltd. had also tendered. In case UPSRTC required Maruti Ltd. to fabricate bus bodies, they would be in a position to fabricate bus bodies against a planned programme. Shri Sanjay Gandhi was then informed that on a rough tabulation made on the tenders received, Maruti stood at sl. [serial] 11 on basic rates and 16 on landed cost. Shri Sanjay Gandhi immediately pointed out that the tabulation could not be final and UPSRTC would be calling the selected firms for negotiations. He indicated that at the time of negotiations, their rates would be brought down to match with other firms selected for entrusting with bus body work. He also mentioned that though Maruti would be prepared to reduce the rates, it would do so only to the level of the rates offered by reputed firms. During the course of discussion, Shri Sanjay Gandhi asked as to when the tenders were opened. He was informed that the tenders were opened on 15-5-76. On hearing this, he sharply reacted and remarked that it was already 3-6-76 and the tender was yet to be finalised. He also made a sarcastic remark that perhaps work in U.P. was done in this fashion. After this the meeting closed and the Transport Secretary asked me to finalise the tender as soon as possible and in any case within the next 15 days. He also asked me to inspect Maruti workshop then and there and during the course of the day see as many bus body fabricating firms who had tendered as possible at Delhi also and to visit Jaipur the following day to inspect the body builders there. Accordingly all of us along with Shri Sanjay Gandhi inspected the Maruti Ltd. workshop before leaving the place. I subsequently inspected two workshops at Delhi that day and also visited Jaipur on

4-6-1976. On 6-6-76 the tenders received were considered by a Committee comprising of Chief Accounts Officer and myself. The Committee broadly considered entrusting of bus bodies for fabrication to the firms based on the rates tendered, location, area, equipment, production capacity, etc., as revealed from the tenders received, the inspection note of workshops by different officers and other factors which are explained in the note dated 6-6-76..... It was recommended in the same note that the following 11 firms could be called for negotiations in order to determine uniform basic rate :—

1. M/s Azad Body Builders, Jaipur
2. M/s Royal Body Builders, Rohtak
3. M/s Maruti Limited, Gurgaon
4. M/s Hindustan Steel Industries, Lucknow
5. M/s Utkal Automobiles, Jamshedpur
6. M/s Kamal & Co., Jaipur
7. M/s Sanghi Engineers, Jaipur.
8. M/s Harish Industries, Meerut
9. M/s Sukhanand Jain, Meerut
10. M/s Jullunder Body Builders, Delhi
11. M/s Delhi Automobiles, Faridabad

The note was duly approved by the Chairman on 7-6-1976. The Negotiation Committee meeting was to be held in the office of the UPSRTC, Ajmere Gate, Delhi, on 14-6-1976. The meeting was proposed to be held at Delhi because most of the firms selected for negotiations were located at Delhi and around Delhi."

As a result of the negotiations it was decided to arrive at the following uniform rates :—

Tata Mofussil (District) type	Rs.42,500
Tata City type	Rs.41,000
Tata Hill type	Rs.38,500
Layland Viking Distt. (Mofussil).	Rs.46,000

The Committee recommended acceptance of the rates arrived at and recommended the allotments of chassis as under :

Maruti Limited

(i) Tata Hill bodies	105
(ii) Tata Rural bodies	105
(iii) Tata city type bodies	50
	260

Hindustan Steel Industries

Lucknow	50
Delhi Automobiles, Faridabad	90
Azad Body Builders, Jaipur	65
Sanghi Engineers	35
Central Work shop, UPSRTC	60
Harish Industries	1 (prototype)
Sukha Nand Jain	1 (prototype)

The note prepared by the Negotiation Committee after their sitting on June 14, 1976 was included in the Agenda for the 26th Board meeting which was put up

to the Chairman, Shri Maheshwar Prasad on June 15. The Chairman discussed the note with Shri Ramanujam orally and approved the inclusion of the item in the Agenda. When the matter came up for consideration before the Corporation at the meeting held on June 23 a revised note was submitted on the ground that the previous note contained clerical and other errors which had inadvertently crept in. According to the revised note Maruti Limited was proposed to be allotted 280 chassis instead of 260 chassis while others were proposed to be allotted chassis as follows :—

Delhi Automobiles	75
Hindustan Steel Industries	110
Central Workshop, UPSRTC	105
Harish Industries	1 (prototype)
Sukhanand Jain	1 (prototype)

Two firms of Jaipur, M/s Azad Body Builders and Sanghi Engineers, were omitted in the new allotment proposed. In the Board Resolution No. 431/76 it was specifically noted that hill type vehicles should be allotted only to Maruti Limited and Delhi Automobiles. One chassis was thereafter allotted to Maruti Limited for construction of a prototype. Shri Ramanujam thereafter visited Maruti Limited on July 24, 1976 along with Shri Diwale, Chief Accounts Officer, and Shri Rajinder Singh, Service Manager, Meerut. During this visit Shri Sanjay Gandhi suggested some alterations in the body specifications in order to make the structure of the body as a whole look elegant. The changes envisaged replacement of aluminium outer framework with treated mild steel for strength and stability; reduction in the number of roof sticks, reducing the size of the window glass according to the DTC design, and also the size of the window to 46" and certain other changes. Shri Sanjay Gandhi assured them that the revised costing based on these changes in the specifications would be intimated to UPSRTC. Shri Ramanujam has in his statement given the following facts :

"The G.M. in his observations on page 6 of the note had enquired if the changes involved any difference in cost. Since the Managing Director, M/s Maruti Ltd. had assured during the discussions that variations in the costs would be worked out and intimated later, this matter was not pursued in routine course. Further, there was always a fear complex persisting in the minds of the officers while dealing with Maruti Ltd. It was known too well, how deeply interested were the Chief Minister, the Transport Minister, the State Minister for Transport, in Maruti Ltd. as evidenced in the allotment of vehicles and especially in view of their indication to us to see that Shri Sanjay Gandhi was not displeased at any stage, it was considered quite unsafe to take up this matter of cost variations with the firm on urgent basis. It was left pending to be taken up at the time of final settlement of accounts. Moreover, it was during this period that Shri Sanjay Gandhi had once spoken to me on telephone and expressed his annoyance over the delay in the delivery of chassis to Maruti Ltd. He accused that on the previous visit of General Manager and myself to Maruti Ltd. We had furnished incorrect information and that

all the files had also been manipulated. As a result G.M. and myself had to seek an appointment with Shri Sanjay Gandhi on telephone and had to rush to Delhi on the same day by car for want of accommodation either by train or by plane from Lucknow or Kanpur and explain the position to him in person".

On July 19, 1976 Shri S. P. Singh, Minister for Transport, had proposed at a meeting that the UPSRTC should go in for purchase of 2,000 additional buses by the end of 1976, in addition to renovating 1,000 buses. This was also stressed by Shri N. D. Tewari, the very next day at a review meeting on the working of Transport Department and Road Transport Corporation. However, the Corporation approved the purchase of only 560 new chassis and its meeting on July 28, 1976 mainly due to the paucity of funds. It was also decided to make the allotment only to such of the private bus body manufacturers who had responded to the tender floated in May 1976.

In view of this decision to allot extra number of chassis to the private builders, Shri K. R. Ramanujam, visited Maruti Limited on August 10, 1976 for assessing the additional capacity of the firm. He was told by Shri Pant that Maruti Limited would be in a position to augment their capacity to 65 bodies from October to December 1976 and 85 from January 1977 onwards. While UPSRTC officials were preparing the notional allotment to Maruti Limited and other bus body builders on this basis, they were pressurised by Shri S. P. Singh, Minister for Transport to think in terms of increased allotment to Maruti Limited. In deference to his wishes and the directions of Shri Maheshwar Prasad, then Chairman, who had received a similar direction from the Minister, General Manager Shri S. K. Modwel visited Maruti Limited on September 25, 1976 with Shri K. R. Ramanujam for further discussions with Shri B. M. Pant. Shri Sanjay Gandhi also joined the discussion. He told them that Maruti Limited could fabricate 100 or even 150 buses per month.

Before the revised notional allocations of chassis could be finalised by UPSRTC officials, Shri Sanjay Gandhi personally rang up Shri K. R. Ramanujam on phone on September 29 and expressed his annoyance that Maruti were not being allotted any chassis despite their availability and accused the UPSRTC officials of giving false data and information and manipulating records. About the same time, Shri S. P. Singh, Transport Minister, spoke to Shri Modwel, General Manager, UPSRTC and told him (as stated in Shri Modwel's affidavit) that the Chief Minister was extremely upset over the delay in giving increased allotment of chassis to Maruti Limited and that he desired that action should be taken immediately in this regard. He directed Shri Modwel to seek an appointment immediately with Shri Sanjay Gandhi and rush to Delhi to settle the matter. Thereafter the General Manager rang up Shri Sanjay Gandhi and sought an appointment to explain to him the correct position. Appointment was given by Shri Sanjay Gandhi at 9.30 A.M. on September 30, 1976 and the General Manager Shri Ramanujam had to leave for Delhi on

September 29 in the evening. On September 30 they met Shri Sanjay Gandhi and explained the position of availability of chassis and their allotment to Maruti. On return from Delhi a note of the discussions held was prepared by Shri K. R. Ramanujam and both the General Manager and the Chairman approved the revised proposal made in this note.

According to the new proposal Maruti Limited was to get 125 chassis in October, 110 in November and 41 in December 1976. Shri Ramanujam has stated that, "This of course has to be at the expense of other private body builders". In his affidavit Shri S. K. Modwel, General Manager, has corroborated this statement. Shri S. K. Modwel on return from Delhi apprised Shri N. D. Tewari, Shri S. P. Singh, Shri R. P. Gupta, then State Minister for Transport, and also the Chairman, Shri Maheshwar Prasad, of the talks he had with Shri Sanjay Gandhi and the revised allotment proposed to be made. An agreement was thereafter executed between UPSRTC and Maruti Limited by which Maruti were to get 170 chassis over and above 280 chassis already allotted. In December 1976, a further move was made to increase the flow of chassis to Maruti. On December 13 Shri S. K. Modwel was instructed over phone from Delhi by Shri R. P. Gupta, the then State Minister of Transport, not to make any further allotment of chassis to M/s Azad Body Builders and M/s Sanghi Engineers, both of Jaipur, till further orders. Shri S. K. Modwel has recorded a note to this effect in the relevant file. Shri Modwel was also instructed to meet Shri Sanjay Gandhi in this connection and to ensure that allotment to Maruti Limited was kept at the maximum possible level. Shri S. P. Singh, Transport Minister also gave similar instructions to Shri Modwel from Delhi and desired that final outcome should be reported to him and the Chief Minister. Shri Modwel in his affidavit has averred that Shri Maheshwar Prasad, Chairman, UPSRTC, has also received similar instructions from the Chief Minister and had conveyed them to him. On December 17, 1976, Shri Modwel along with his Assistant General Manager (ME) met Shri Sanjay Gandhi. Shri Modwel says that Shri Sanjay Gandhi found fault with him for diverting chassis to other firms in spite of clear instructions from the Chief Minister, Transport Minister and the State Minister of Transport and directed him to divert all chassis to Maruti Limited. Shri S. K. Modwel pointed out that it was necessary to keep the Central workshop of UPSRTC engaged in bus body building work. Besides, there was difficulty in securing loans from Banks for purchase of chassis. It has been further stated by Shri Modwel that the Managing Director of Maruti Limited became very stern and told him in clear terms that no further diversion of chassis to other body builders should be done and it should have been clear to him that the highest officials of the U.P. Government had already given direction that all chassis should be diverted to Maruti Limited for bus body fabrication. Two remedial measures were suggested by Shri Sanjay Gandhi to overcome the difficulties mentioned by Shri Modwel. He suggested firstly that the Central workshop could be kept fully engaged with the renovation and re-renovation of old buses in order to lengthen the service span of the bus bodies beyond

4 lac km. Secondly, he said, Maruti Limited would use its influence with Punjab National Bank to provide credit facilities to the UPSRTC on suppliers' credit basis. Discussions which Shri Modwel had with Shri Sanjay Gandhi were duly conveyed to Chief Minister, Minister of Transport and State Minister of Transport by Shri Modwel immediately on return. As a result a further allotment of 60 Tata chassis of small wheel base was made in favour of Maruti Limited for fabrication of hill bodies and 80 LWB Leyland chassis at 40 per month in January and February 1977, subject to Maruti Limited arranging credit facilities through Punjab National Bank. The Transport Minister Shri S. P. Singh, according to Shri Ramanujam, again spoke to Shri Modwel and desired that all vehicles except those intended for the Central workshop should be allotted to Maruti Limited. A note was recorded by Shri Modwel on January 7, 1977 in this connection which was submitted by him to the Transport Minister through the Chairman. The Transport Minister thereafter had discussions with the Chairman, Shri Maheshwar Prasad, and agreed to modify his direction to the extent that the commitments already entered into with small scale industries could be honoured. These facts have been mentioned in the noting in the relevant file. The proposal to make further allotment to Maruti Limited was brought to the notice of the Ministers including the Chief Minister in a note prepared by Shri K. R. Ramanujam on January 12, 1977.

The proposal mooted by Shri Sanjay Gandhi at the time of the discussions he had with General Manager, UPSRTC, on December 17, 1976 to arrange credit facilities through Punjab National Bank on suppliers' credit basis for the purchase of 80 Leyland Viking chassis did not however materialise. Both Shri S. K. Modwel and Shri K. R. Ramanujam have stated quite clearly that at every stage in the bus body fabrication programme ever since Maruti entered the field there was interference and pressure exerted by the Chief Minister, Shri N. D. Tewari, Transport Minister, Shri S. P. Singh and the State Minister of Transport, Shri R. P. Gupta, for the allotment of maximum number of chassis to Maruti Limited. Shri S. K. Modwel has stated in his affidavit : "That in view of what has been stated above, it is evident that at various stages the Chief Minister, Transport Minister and the State Minister for Transport had told me and the Chairman of the Corporation that the chassis to the maximum

possible extent may be given to the firm for bus body fabrication, and subsequently there were clear orders that all contracts for bus body fabrication should be entered into with one good party".

Shri K. R. Ramanujam has stated :

"While dealing with M/s Maruti Ltd., in the matter of bus body fabrication, I have been under constant fear of being put under MISA for any lapse which would cause annoyance to Shri Sanjay Gandhi. On 17th December 1976 when I was on leave in Delhi, I was called by the Transport Minister who was also in Delhi in U.P. Niwas. He told me that Shri Sanjay Gandhi was extremely annoyed with me but that he had explained to him that there was perhaps some misunderstanding and it was within his personal knowledge that I was not putting any impediment with regard to the payments or allotment to the firm. It was, however, suggested by the Minister that the matter be explained to Shri Sanjay Gandhi personally".

In the statement submitted in response to the notice under Section 8B of the Commissions of Inquiry Act, both Shri S. P. Singh and Shri R. P. Gupta have denied the role attributed to them and so did Shri N. D. Tewari by a telegram.

On the basis of the material available to the Commission it is quite clear that undue favour was shown to Maruti Limited in the matter of consideration and acceptance of their offer which was not the lowest, changes in the body design as suggested by Shri Sanjay Gandhi without checking the cost variations involved, and allotment of additional chassis from time to time beyond the limit envisaged in the original tender. It appears Maruti Limited dictated terms. A bus body builder in the normal course of business cannot summon the top management of any Transport Corporation to his business premises to tell them how much business he must get. The UPSRTC, a statutory Corporation, is an autonomous body and the frequent interferences by the former Chief Minister, Transport Minister and the State Minister for Transport were wholly unjustified and only indicated their desire to help Maruti at the expense of the other body builders including the Central Workshop of the Road Transport Corporation itself.

LIST OF CASES OF CONTRACTS, ETC. (ITEMS 7, 8 & 9 OF THE TERMS OF REFERENCE)

I. Ministry of Defence (Deptt. of Defence Supplies)

1. Placement of orders on Maruti Limited for cap chambers (Zinc base alloy)—4,00,000 numbers.
2. Supply by Bharat Electronics Ltd. of 1.75 lac diodes at Rs. 4 per piece (Total value of order Rs. 7 lacs) to Maruti Technical Services (P) Ltd. for export.
3. Transactions between Hindustan Aeronautics Limited and Maruti Limited.
One trial order in 1973 and 46 supply orders for tooling items during the period 20-5-75 to 2-3-76 for amounts varying from Rs. 400 to Rs. 93,000 (Two orders were cancelled). Total value of order Rs. 8.77 lacs.

II. Department of Electronics

1. Fabrication of 3 special computer cabinets.
2. Fabrication of three base plates for Brendboard Servo Kits supplied by Electronics Corporation of India Ltd.
3. Fabrication of one Display console.

III. Ministry of Tourism & Civil Aviation

1. Sale of aircraft spares, equipment, tools, etc. by Indian Airlines to Maruti Technical Services (P) Ltd.
2. Import of Piper Aircraft.

IV. Ministry of Petroleum, Chemicals & Fertilisers (ONGC)

1. Purchase of 14 Truck Tractors in 1976 by Oil and Natural Gas Commission from M/s. Maruti Heavy Vehicles (P) Ltd.
2. Purchase of 8 Truck mounted mobile cranes by ONGC from M/s. Maruti Heavy Vehicles (P) Ltd.
3. Purchase of 6 $\frac{8}{10}$ Ton Road Rollers together with spares (total value Rs. 8,74,657) through Jalan Modi Automobiles, Gurgaon

V. Department of Supply

1. Provisional registration of Maruti Heavy Vehicles Private Limited, as approved dealers for supply of Road Rollers.
2. Registration of Maruti Limited by DGS&D as approved dealers for manufacture of :
 - (i) Maruti cars ;
 - (ii) Die Casting components;
 - (iii) Bus/Truck bodies;
 - (iv) Dies, Jigs and Fixtures;
 - (v) Kittingables for Bus/truck chassis;
 - (vi) Sheet Metal pressing;
 - (vii) International Harvester's Motor Trucks and Rear-End Dumpers.
3. Seven Tender cases :
 - (i) First A/T placed on Maruti Limited for supply of Radiosonde MK-III Pressure Die cast frame.
 - (ii) Second A/T placed on Maruti Limited for supply of Pressure Die cast frame as risk purchase.
 - (iii) Third A/T placed on Maruti Limited for supply of Pressure Die Cast frame.
 - (iv) Acceptance of Maruti Heavy Vehicles Private Limited as Authorised Supplier for supply of spares for Agrind Moore Road Rollers.
 - (v) Procurement of 18 of Kittingable bodies and cabs for TNB chassis (Maruti Limited).
 - (vi) Procurement of 13 of All Steel Kittingable Cabs and Bodies (Maruti Limited).
 - (vii) Supply of Cap end and Securing Ring by Ordnance Factory, Chanda.

VI. Ministry of Heavy Industry**(a) Engineering Projects (India) Limited**

- (i) Purchase of 6 $\frac{8}{10}$ tonnes road rollers at a price of Rs. 1.20 lacs each.
- (ii) Supply of spare parts for road rollers at the value of Rs. 62,228.76.
- (iii) Supply of 6 Maruti Profiles at a price of Rs. 7,200 each.

(b) Scooters India Limited

- (i) Negotiations for the purchase of machines from Maruti Limited.
- (ii) Building of Cabs and Bodies.

- (c) *Mining & Allied Machinery Corporation Limited*
Placement of order for Idlers & Rollers on Maruti Limited.
- (b) *Hindustan Machine Tools Limited*
Sale of machines to Maruti Limited.

VII. NDMC/DDA and other local authorities

1. Purchase of Quick Flow Polymix by Water Supply & Sewerage Disposal Undertaking from Maruti Technical Services Private Limited.
2. Purchase of pre-cast RCC slabs from Maruti Limited for storm water drains.
3. Bus Body fabrication contract by Delhi Transport Undertaking.
4. Purchase of 3 Maruti Road Rollers by NDMC.
5. Purchase of spare parts for Maruti Road Rollers by NDMC.
6. Purchase of 10 Maruti Road Rollers by DDA.
7. Purchase of 3 Road Rollers by Delhi Municipal Corporation.

VIII. Transactions with State Governments

1. Supply of 25 Road Rollers by Maruti Heavy Vehicles Private Limited to PWD (B & R), Rajasthan and 1 to Rajasthan Roadways.
2. Purchase of two Road Rollers by Madhya Pradesh Government.
3. Purchase of 10 Maruti Brand Road Rollers by NOIDA, Government of Uttar Pradesh from Jalan Modi Automobiles.
4. Purchase of 15 Road Rollers by Government of Punjab.
5. Purchase of 8 Road Rollers by Government of Karnataka.
6. Purchase of a Road Roller by PWD, Government of Himachal Pradesh and 1 Road Roller by Himachal Pradesh Housing Board.
7. Bus Body Building contracts awarded to Maruti Limited by :
 - (a) Haryana Roadways (referred to Justice Jaganmohan Reddy Commission and excluded from the purview of this Commission).
 - (b) Madhya Pradesh Roadways.
 - (c) Rajasthan Roadways.
 - (d) Haryana Electricity Board.
 - (e) Uttar Pradesh Roadways.
8. Negotiations for purchase of Piper Aircraft by Governments of Maharashtra, Punjab and Haryana.

IX. Miscellaneous

- Consultancy contract with NOIDA (Government of Uttar Pradesh Undertaking).



CHAPTER VII

The tenth item in the list concerns "all facts and circumstances relating to allotment of controlled commodities and materials, like steel and cement, to the said [Maruti] concerns and their utilisation or disposal otherwise". The controlled commodities concerned here are steel, cement and coal which were allotted to Maruti Limited.

STEEL

Maruti Limited got the letter of intent on September 30, 1970 and the industrial licence on July 25, 1974. As in the case of other industrial units holding letters of intent or industrial licences, the Directorate General of Technical Development (Automobile Directorate) became the sponsoring authority in respect of steel for Maruti Limited. During the period 1971-75 supplies of iron and steel materials were regulated and allocated to the consumers from the following sources :—

- (i) Steel Priority Committee (assisted by Joint Plant Committee) ;
- (ii) Billet Re-rollers Committee ; and
- (iii) Discretionary Quotas as the disposal of
 - (a) Iron and Steel Controller,
 - (b) Regional Iron and Steel Controller, and
 - (c) Stockyards of the main producers.

Allocation of steel was normally made to the various sponsoring authorities leaving it to them to sub-allocate different quantities among the individual indentors. To the units sponsored by the Directorate General of Technical Development (DGTD for short), however, the sub-allocations were made by the Iron and Steel Controller at the instance of DGTD. Altogether 6066 tonnes of steel were allocated to Maruti Limited.

On March 24, 1972 the Chief Executive of Maruti Limited wrote to the Iron and Steel Controller in Calcutta the following letter :

"Dear Sir,

You may have already heard that we are setting up a very major industrial complex to mass produce "Maruti—The People's Car" at an annual rate of 50,000 pieces under the Government permission being granted to Shri Sanjay Gandhi our Managing Director.

We have already applied for the requisite steel requirements to the J.P.C., but the processing of the application form submitted to the J.P.C., will take sometime. As we have to complete our project in 6 months' time, we will request you to allot some quantities of steel through the stockyard on priority basis.

In this respect we are also attaching the certificate of our architects for the immediate need of the steel quantities to start the construction programme.

Thanking you.

Yours faithfully,
for Maruti Ltd.

Sd/-

Wg. Cdr. R. H. Chawdhry (Retd.)
Chief Executive"

On the next day, March 25, 1972 the DGTD received an undated request on a plain white sheet of paper from Shri Sanjay Gandhi, Director, Maruti Limited for exemption from payment of 15% advance with the order of 6000 tones of structural steel placed by the company with Joint Plant Committee and Billets Re-rollers Committee at Calcutta. The request was based on the ground that Maruti Limited was still a new company with limited resources. On this undated letter a telephone number, 617477, and a name "R. K. Dhawan, P.A. to P.M." are written in ink in a corner. It is not known who wrote this, but 617477 was the number of the one of the telephones in Prime Minister Shrimati Indira Gandhi's residence. As Maruti Limited had not yet been granted an industrial licence, DGTD sought the advice of the Ministry as to whether the request should be processed further. The Ministry decided that in the circumstances of the case the request for allocation of structural steel should be accepted in principle. In a note recorded on April 10, 1972 Shri R. V. Subrahmanian, Additional Secretary in the Ministry of Industrial Development (Department of Heavy Industry), said "...the request of Shri Sanjay Gandhi for allocation of structural steel for the construction of factory building should be accepted in principle. The actual quantity of structural steel to be recommended for allocation by J.P.C. (Joint Plant Committee) should be decided by DGTD in accordance with the accepted norms. Being a new unit...the case should be recommended for exemption from payment of earnest money". Shri R. V. Subrahmanian deposing before the Commission sought to justify the decision by saying that "since the production of prototype was a primary condition of the letter of intent, I thought that we should enable them to produce prototypes and give them such facilities needed for the purpose", Shri Subrahmanian agreed with Counsel assisting the Commission that at that stage the object was not mass production of cars but only the production of prototypes and that for this limited purpose the same quantity of steel was not required. It was pointed out to

Shri Subrahmanian that for the production of prototypes it might be necessary to construct a research and development block but not a fullfledged factory, and 6000 tonnes of steel was certainly not required for constructing a research and development block. Shri Subrahmanian admitted that he did not indicate in his note that the requirement of steel at that stage was for the limited purpose of production of prototypes. But did the company require any steel at that stage? The progress report sent on February 26, 1972 by Maruti Limited to DGTD discloses that they had already constructed a research and development shed, an office block, and a design office and in addition had set up a tool room, a jig boring shop, a small foundry and small forge shops. The report to DGTD also stated that the first ten production models of the car were "well near completion" and that out of these the first three were soon to be offered to the government for trials. Thus Maruti Limited seems to have already completed construction of such structures as were necessary for the production of prototypes. When Maruti wrote to the Iron and Steel Controller, Calcutta or to DGTD it held only a letter of intent and the grant of industrial licence depended on the prototype car being declared roadworthy, yet in its letter of March 24, 1972 to the Iron and Steel Controller, the company stated "we are setting up a very major industrial complex to mass produce Maruti—the people's car at an annual rate of 50,000 pieces". The company appears to have been in no doubt that an industrial licence would be granted and obviously its requirement of steel was calculated on that basis. If the success of Maruti's application for an industrial licence appears predetermined, so it seems was Maruti's demand for 6000 tonnes of steel. The telephone number and the name noted on Sanjay Gandhi's undated letter to DGTD acquires a significance in this context.

DGTD was directed to process the case on the basis of the Ministry's decision. Another problem arose at this stage. An industrial unit sponsored by DGTD for the grant of steel had to be registered with DGTD. On August 29, 1972 the Joint Plant Committee asked for a photo copy of Maruti's DGTD registration number for their record. Maruti Limited approached DGTD for allotment of a registration number. Shri B. S. V. Rao, Development Officer, DGTD examining the position recorded a note on September 12, 1972 that normally registration number was allotted to a unit after the issue of an industrial licence. The Ministry was therefore again requested to advise. In the Ministry Shri N. R. Krishnan, Deputy Secretary, recorded the following note on December 18, 1972: "Two courses are open to us. We may either issue the industrial licence without waiting for the fulfilment of the conditions of the letter of intent or authorise the DGTD to issue the registration number in anticipation of the grant of an industrial licence. I understand that the prototype of the vehicle has not yet been despatched to the VRDE, Ahmednagar. It may not perhaps, therefore, be desirable to grant an industrial licence at this stage. It is therefore for consideration whether the DGTD should be authorised to issue the registration

number". On the same day Shri R. V. Subrahmanian made his recommendation that the "DGTD may be authorised to issue the registration number". This was approved by the Minister of Industrial Development, Shri C. Subramaniam on December 30, 1972. Examined before the Commission on this aspect Shri R. V. Subrahmanian said that according to the "general policy and practice" "a unit is allotted a controlled commodity like steel only after either it has industrial licence or registered with the DGTD". Shri R. V. Subrahmanian however added, "I did feel at that point of time that in order to enable the holder of the letter of intent to be able to fulfil the terms of the letter of intent and in order to make the prototypes, they would require certain facilities in the shape of some sort of factory buildings and some other equipment....". R. V. Subrahmanian however failed to recall any other case where "the general policy" was departed from as was done in the case of Maruti Limited. Shri C. Subramaniam was also questioned on this point. He said "two courses were open to us... though as a fact we may either issue the industrial licence without waiting for the fulfilment of the conditions of the letter of intent or order the DGTD to issue the registration certificate for certain specific purposes for the allotment of steel etc. So we had opted for the second alternative". Really no two courses were open. It was not possible to issue the industrial licence disregarding the conditions of the letter of intent. I do not think Shri C. Subramaniam was suggesting that the Ministry could have made an exception in the case of Maruti and issue licence just to enable the company to get a quota of steel. The only course open therefore was to deviate from the general practice, and direct DGTD to issue a registration certificate in favour of Maruti Limited, if this was necessary for the purpose of enabling the company to produce prototypes. Shri R. V. Subrahmanian's note did not mention that Maruti's requirement of steel was for this limited purpose only. I have already dealt with the question whether at that stage Maruti Limited really needed any steel even for this limited purpose.

Reference may be made to one other feature relating to the allocation of steel to Maruti Limited. Chapter 8 of the guide book for iron and steel indentors issued by the Joint Plant Committee in 1972 empowers the Iron and Steel Controller to issue allotment letters from time to time for small quantities, not exceeding twenty tonnes, to a party which were to remain valid for ninety days from the date of issue. It appears that Shri Shivender Singh Sidhu, Iron and Steel Controller, issued allotment letters for 643 metric tonnes of steel on 28/29 March 1972 apparently in violation of the procedure laid down in chapter 8 of the guide book. Section 5 explanation is that in practice twenty tonnes was always taken as twenty tonnes per section/thickness of a category of steel. Shri Sidhu elaborated this as follows. Allotment letters issued by the Steel Controller were registered as demands with the stockyards and it was the policy "to keep the stockyards adequately loaded with these registration of demands so that they are not able to misuse". According to Shri Sidhu the "general experience has been" that of these allotment letters not

more than ten per cent or fifteen per cent "ultimately materialise". He added that in this particular case though the allotment was for 643 tonnes, the party concerned received within a period of three months only forty six tonnes i.e. seven per cent, and the allotment letters became invalid after ninety days from the date of issue. "So we were deliberately liberal with these allotment letters" which were "not like formal allotment orders or firm allotments", said Sidhu. His attention was drawn to an order he recorded on March 28, 1972 on the letter dated March 24, 1972 addressed by Maruti Limited to the Iron and Steel Controller, Calcutta, for allotment of "some quantities of steel through the stockyard on priority basis". While assenting to the release of "some material from the stockyards of the main producers" he mentioned in the order apparently in justification of it that "Industrial Development Ministry has already issued the licence" for Maruti's car project. That was an incorrect statement. Maruti Limited got industrial licence in July 1974 and Shri Sidhu admitted his mistake before the Commission.

From the evidence of several traders and some of the employees of Maruti Limited it appears that a part of the controlled steel allocated and despatched to the company was sold to private parties in violation of the Iron and Steel Control Order, 1956. Some of these traders have filed affidavits before the Commission and one of them was examined as witness, Shri Vishwanath Nanda, a partner of the firm M/s Prem Nath Nanda and Sons of Hauz Kazi, Delhi, states in his affidavit (affirmed on 16-12-78) that they used to purchase steel from registered stockists or from the open market and offer the same for sale, and that between November 1973 and May 1974 they bought steel materials from Maruti Limited. This firm used to sell mill stores and tool items to Maruti Limited. In November 1973 one of the employees (Shri M. M. Puri) of Maruti Limited informed Shri Nanda that the company had iron scrap for sale. After a discussion with Shri Sanjay Gandhi, Shri Nanda purchased the first lot of iron scrap from the company on November 24, 1973. Nanda also "came to know that there were other parties of Delhi who were buying steel materials from Maruti Limited". He adds: "we were also sold the steel materials at rates mutually settled between us. By mutual settlement I mean that the rates were quoted by Shri Sanjay Gandhi in respect of the particular items and they were accepted by me. There was no question of a counter offer from my side... while taking out the materials from the premises of the Maruti Limited they used to give us a gate pass allowing the materials to be taken out of their premises. They used to give only one copy which we surrendered at the gate to the security staff of Maruti Limited". Shri Nanda says that the steel materials purchased from Maruti Limited were all sold by his firm in the open market to various parties. He produced the book of account of his firm recording the transactions and his affidavit includes a statement setting out the dates of the transactions, the quantity and description of the material and the amounts paid.

Shri Ved Prakash, partner of firm M/s Chaudhary Ram Chuni Lal & Company of Loha Mandi, Naraina,

Delhi also filed an affidavit, affirmed on December 18, 1978. The business of this firm "consists of sale and purchase of iron and steel materials". They "specialised in the sale and purchase of items like M.S. plates, T. iron, angles, squares etc. The iron and steel materials purchased from rerollers and others were sold by retail to factory owners and small/large scale industries and steel dealers". Ved Prakash came to know that M/s Prem Nath Nanda & Sons of Delhi from whom his firm purchased 31,900 kgs. of M.S. angles got these materials from Maruti Limited. Thereafter he contacted M. M. Puri whom he describes as purchase supervisor of Maruti Limited. "He showed me the angles and plates that they were offering for sale and he also got my offer of the rates. After this he took me to Shri Sanjay Gandhi, Managing Director, Maruti Limited, in his factory office at Gurgaon. This should have been on February 22, 1974 or a day or two earlier". As a trader in steel he knew that "iron and steel was in short supply and was a scarce commodity in those days for most of the items, particularly M.S. angles and plates", but he was not aware whether these were controlled items or not. Ved Prakash sets out in his affidavit the dates, the quantity and description of the material and the amounts paid. He also says that gate passes were issued to them for taking the material out of the Maruti factory which had to be surrendered at the gate.

The business of M/s S. N. Steel Corporation was also purchase and sale of iron and steel materials. Shri S. N. Beriwal, a partner of the firm, affirmed an affidavit on December 15, 1978 in which he states that one of his employees Shiv Kumar Sharma had met Shri Sanjay Gandhi and got an offer of sale of iron scrap. Beriwal accompanied by Shiv Kumar Sharma met Shri Sanjay Gandhi in the third week of January 1974. Shri Sanjay Gandhi said that "there was no scrap available then for sale and he offered to sell M.S. plates and angles and asked us to quote... I knew that M.S. plates were not easily available in the open market". This firm sold all the materials purchased from Maruti Limited to other parties in Delhi. Beriwal's affidavit also contains a statement containing the details of the transactions between his firm and Maruti Limited, Shiv Kumar Sharma has filed a supporting affidavit.

Shri Santosh Kumar of Narela, Delhi, carried on business of purchase and sale of iron and steel in the name and style of M/s Santosh Kumar. In his affidavit (affirmed on December 16, 1978) he says that he purchased M.S. steel materials from Maruti Limited on different dates, the details of which are annexed to his affidavit. "I used to arrange my own trucks to

take the steel materials from their premises to Delhi... steel materials purchased by me were sold to various steel merchants in the market". He produced the books of accounts of his business recording the transactions.

Rama Nand, a partner of M/s. Rama Industries of Rewari (Rajasthan) with branch office at 21, Industrial Estate, Gurgaon, deposed before the Commission. His firm used to supply machinery, namely deep drawing boards, wooden patterns, iron castings etc. to Maruti Limited. Rama Nand says: "We started construction of our own factory at our branch at Gurgaon from 2-2-74. We needed steel materials of various types for the construction purposes and on coming to know that some steel materials are available with Maruti Limited with whom I have already doing business, I approached Mr. Gulati, Accountant, and discussed the rates etc. in respect of those items which I required and asked him if they were available... I purchased the steel items from Maruti Limited on ten occasions". The details of the purchases such as bill number, dates and the amounts paid have been mentioned by Shri Rama Nand. According to him Shri Gulati told him that "they can sell these materials since they had purchased the steel from open market also apart from the steel mills and most of their construction work was over".

It is incorrect to suggest that what Maruti sold to these parties were all steel purchased from "open market". Shri Trilochanjit Singh who was Store Keeper in Maruti Limited from August 1972 till February 15, 1975 has filed an affidavit affirmed on December 29, 1978. As Store Keeper his "duties were to look after the receipts and issues of the building materials and maintain the records thereof". His records contain entries of all receipts of cement, and steel materials from the stockyards as well as from the local market. He says that the sale of steel to private parties commenced from the middle of 1973 and continued upto about the end of 1974. "These sales were effected because they [steel materials] were considered surplus after the completion of the various phases of the factory building". Some steel materials purchased from the local market were used in the construction of the Maruti complex. On the basis of the available records Shri Trilochanjit Singh has compiled charts in respect of five items, namely, M. S. angles, M. S. plates, M. S. channels, M. S. flats and R. S. Joists, showing the receipts of these five items by Maruti Limited during 1972-73 and 1973-74 from stockyard as well as from the local market. These charts are a part of his affidavit. Shri S. Venkataraman joined Maruti Limited as Cost Accountant in April 1973 and from November 1973 he was asked also to look after the day-to-day work of the purchase department under the supervision and control of the Managing Director Shri Sanjay Gandhi. In his deposition he said that he knew that steel materials were being sold to some local parties of Delhi. He was asked whether he could on the basis of the available records trace the origin of the steel materials sold by Maruti Limited "to the controlled steel items purchased from the government stockyards". Shri Venkataraman worked out the answer on the basis of the records including the charts prepared by Shri Trilochanjit Singh in respect of three items, (i) R. S. Joist, (ii) Tor steel-18 mm and (iii) M. S. Plates 8 mm.

The statement prepared by him "showing the minimum amount of stores materials whose sales can be traced to government purchase" is as follows:

		In M. Tonnes.	
		Nil (as per inventory list 16-5-1973)	the dt.
31-3-1973 Closing balance of stock			
Purchases from 1-4-1973 to 31-3-1974 (as per the Building Material Receipt Register)			
HSL	25.085		
TISCO	5.955		
IISCO	9.994	41.034	
Local purchases		Nil	
Return from Contractors (as per the Store Return Register)		33.009	75.043
Sale during 1973-74 (as per the Issue Register)			
Returned to Steel Sales Syndicate		41.034	
Others		27.536	68.570
Stock as on 31-3-1974			6.473
Physical balance recorded as on 31-3-74 (Building Material Inventory List 31-3-74)			7.118

From the statement as shown above, it is seen that 68.570 M. Tonnes of RS Joists all of which can be traced only to Government purchases have been sold in the local market. This I say on the basis that firstly there has been no purchases from local markets in the year 1973-74 and secondly the return from the Contractors of materials presumably purchased in 1972-73 were all Government purchased materials as seen from Shri Trilochanjit Singh's statement.

TOR Steel (18 mm)

	M. Tonnes
Closing balance as on 31-3-1973	Nil
Purchased during 1973-74	
Local	Nil
Government	91.730
Sales	59.395
Returned to Steel Sales Syndicate	9.980
Total Sales	69.375

From the above chart it is seen that 69.375 M. Tonnes of Tor Steel 18 mm were sold in local market and there was no purchase of this material from the local market during the year 1973-74 and also there was a 'NIL' Closing Balance as on 31st March 1973. Thus all the 69.375 M. Tonnes are clearly traceable to Government stockyards purchases.

M.S. Plates (8 mm)

	M. Tonnes	M. Tonnes
Closing Balance as on 31-3-1973	79.411	
Purchases during 1973-74		
Local	Nil	
Government	35.069	
Sale during the year 1973-74		47.385
Steel Sale Syndicate		23.240
Total sales		70.625

The Closing Stock of 8 mm MS Plates as on 31st March, 1973 was 79.411 M. Tonnes as shown above. From Shri Trilochanjit Singh's statement it is seen that 69.852 M. Tonnes of 8 mm MS Plates was purchased from Government stockyards and only 6.628 M. Tonnes from the local market [in 1972-73]. Therefore, it is clear that the bulk of the stock in hand as on 31st March 1973 consisted of Government purchased materials. Therefore, the sale of 70.625 M. Tonnes during the year 1973-74 was from the Government's stocks since no local purchases had been resorted to in the same year". Even if the entire quantity of MS Plates (8 mm) sold to or transferred otherwise during 1973-74 did not come out of the government stock, the bulk of it must have, because the quantity of locally purchased steel in stock was only 6,628 tonnes. Venkataraman added that he prepared the statement "within the limits of time" meaning it was hurriedly done and therefore was not comprehensive, however, the statement puts it beyond doubt that Maruti Limited sold considerable quantities of steel despatched to them from the stockyards.

Trilochanjit Singh says : "if any material were to be taken outside the factory I would generally act on a written requisition from heads of various divisions . . . no head of any division would direct me to issue the same to outside parties unless the matter had the concurrence of Shri Sanjay Gandhi, Managing Director".

It is found from the figures supplied by the Ministry of Steel and Mines that altogether 6066.082 metric tonnes of steel had been allocated and despatched to Maruti Limited. Apart from the evidence of witnesses to the effect that the company sold a part of this quantity to private parties, the investigation agency attached to this Commission also made an attempt to find out the actual quantity of steel that went into the construction of the Maruti factory building which would indicate approximately the total quantity of steel misutilised by the company. Owing to the limitations of time and resources it has not been possible to make a thorough probe into the matter, the total quantity of steel bought from the open market by the company is not known but the results yielded by such investigation as the Commission has been able to make would justify a more thorough probe by an investigation agency having more time and resources at its disposal. It may be recalled that Maruti Limited in their report dated February 26, 1972 to DGTD stated that the company had completed the construction of research and development wing and office block, tool room, jig boring shop, a small foundry and forge shops by February 1972 which was before the allotment of steel was made to the company. That being so, the steel used for these buildings has not been taken into account by the Commission's investigation team. Roughly the total utilisation of steel for the company's main factory building has been calculated as follows :

(a) Normal bays roofing	2800 Tonnes
(b) High bay roofing	489 Tonnes
(c) Steel columns	140 Tonnes
(d) Crane Girders	89 Tonnes
(e) Bracing of columns in High bay	20 Tonnes
	3538 Tonnes

To that must be added 50 tonnes which on a rough estimate was used for miscellaneous purposes making the total 3588 tonnes. This quantity includes M. S. angles, plates, flats, joists and channels. Central Public Works Department's analysis of rates allows five per cent wastage. This quantity added to 3588 tonnes would make the total 3767.4 tonnes.

M. S. sheets have been used for covering the channels provided in the factory building and also for making cable ducts which are provided inside the channels. 123.824 tonnes of CR and HR sheets were despatched to Maruti Limited. The quantity of M. S. sheets used for gate, the gauge of which cannot be measured easily, is likely to be about one tonne. The total quantity of M. S. sheets used works out, again on a rough calculation, to 37.64 tonnes against 123.84 tonnes received.

64,839 tonnes of angle 200×200×20 MM were also despatched to Maruti Limited. From the Company's profit and loss control ledger volume II, 1973-74, it appears that 57,935 tonnes of 200×200×20 MM has been sold.

CEMENT

As regards cement, Maruti Limited appears to have sold large quantities of it almost openly. A. D. Kolhatkar, Manager, Personnel and Factory Administration of Maruti Limited, says in his affidavit (affirmed on December 19, 1978) that "a substantial portion" of the "stocks of cement which they had secured from the cement controller", "became surplus because of over-estimation of their actual requirements". There is no dispute that in 1973-74 there was acute shortage of cement and the evidence indicates that industries in Gurgaon were in great difficulty because of the shortage, and even the requirements of municipal bodies could not be fully met. Shri S. M. Goyal who was Sub-Divisional Magistrate of Gurgaon as well as District Food and Supplies Controller at the time has filed a statement supported by an affidavit in which he says that he was informed towards the end of 1973 or early 1974 by Shri V. S. Ailawadi, Deputy Commissioner of Gurgaon, that Maruti Limited had substantial quantity of surplus cement and that "it might be possible to arrive at a suitable arrangement" with them for distribution of cement "amongst the public". Shri Goyal met Shri Gandhi who "stipulated two conditions : one was that whenever Maruti Limited themselves required some cement, the District Food and Supplies Administration should be willing to make the cement available from the district quota without delay. The second condition was that permits should be addressed to Maruti Limited favouring parties who were interested in collecting the cement from them [Maruti Limited]". According to Shri Goyal the first condition could not be accepted "because in the scarcity conditions prevailing then no Controller could have anticipated the supply position during the coming months to be able to say that he would meet the requirements of a big factory like Maruti Limited. Also no time limit was indicated by Shri Sanjay Gandhi as to when he would require the cement which again complicated matters even more . . . The second condition could also not be met because permits could only be addressed to licensed dealers and neither Shri Sanjay Gandhi nor Maruti Limited was registered as a dealer in cement with the District Food and

Supplies Controller", Goyal adds "I am not aware of the intention behind the second condition but it was not possible under the Regulations to address a permit to anyone other than a licensed dealer". He therefore came away and "reported the matter to the Deputy Commissioner". Shri Satish Chander Virmani, a partner of M/s Akash Industries of Gurgaon, in his affidavit (affirmed on December 26, 1978) says that he and several other industrialists were summoned by telephone to the office of Shri Dhanpat Singh, Assistant District Industries Officer, Gurgaon, where Shri S. N. Goyal was also present. They informed the industrialists, according to Virmani that surplus cement was available with Maruti Limited and that the company was "willing to sell it to the industries of the town to the extent that was required by each party". This information was conveyed by the industrialists present to others. Virmani says Maruti Limited later went back on the promise they made and declined to part with the cement in their stock for reasons unknown to him. A probable reason is suggested in the affidavit of Shri Dhanpat Singh (affirmed on December 22, 1978), "... they [Maruti Limited] took this decision because of the prohibition under the Haryana Cement (Sale and Licensing) Control Order which was in force at that time under which only licensed dealers were authorised to sell cement. It would have been an offence for M/s Maruti Limited to have sold any surplus cement without being a licensed dealer and if they had granted cash memos, that would have created documentary evidence against them". Dhanpat Singh however, denies that the Industries Department of Haryana sponsored Maruti's proposal to sell controlled commodities like cement his version is that the representatives of the District Industries Association brought it to his notice that Maruti Limited was in a position to distribute cement to the industries. Shri Goyal could not recall having met the industrialists. But Dhanpat Singh admits that he "ascertained that

M/s Maruti Limited had approximately 3000 to 4000 bags of surplus cement with them which they were prepared to dispose of" and that the company ultimately did not sell the cement to the industries in spite of an assurance given earlier.

Maruti Limited however, did sell cement to private parties and even municipal and local authorities, only the transactions were labelled as loan. The company realised from the transferees the value of the cement made over to them with a condition that whenever asked for they would return the quantity of cement they had received. No time limit was fixed for such re-transfer and the value realised from the transferees in most cases, as would appear from the statements of these parties, was Rs. 15 per bag which was in excess of the controlled rate. From the evidence it appears that except in two cases, in no other the cement transferred was returned. The two parties who returned the cement bags were Tiger Locks Limited and Ansal Housing and Estates Private Limited, Gurgaon. From the affidavit (affirmed on December 16, 1978) of Shri A. R. Varma, who was the Public Relations Officer of Tiger Locks Limited at the relevant time, it appears that the cement bags returned by Tiger Locks came out of the allotment received by them from the Regional Cement Officer, New Delhi. Such use of the controlled cement was also not permissible as would appear from the statement of Shri L. R. Julka, Joint Cement Controller, New Delhi. It is not known from which source Ansal Housing and Estates Private Limited returned the quantity of cement which they received from Maruti Limited.

Shri Trilochanjit Singh, Store Keeper in Maruti Limited, who prepared in the course of his duty vouchers "to show on a day-to-day basis and transactionwise all issue of building material" under instructions from his superiors, has drawn up a chart showing the relevant transactions which is as follows :

S. No.	Voucher No.	Name of the party and date of issue	Description of item issued with qty.	Remarks
1.	17839	Rama Industries 2-3-74	Cement (150 bags)	
2.	17836	Om Surin Engg. Works 1-3-74	Cement (20 bags)	Gate pass No.2827—Party's sig. available
3.	17812	Shri S. D. Diwan, DSP, Gurgaon 23-2-74	Cement (150 bags)	Gate Pass No.2183—Party's sig. available
4.	17811	Rama Industries 22-2-74	Cement (100 bags)	Gate pass No.2175—Party's sig. available
5.	17810	-do- 21-2-74	-do- (100 bags)	Gate pass No.2174—Party's sig. available
6.	9992	-do- 13-2-74	-do- (50 bags)	Gate Pass No.2149—Party's sig. available
7.	9989	Tiger Locks Ltd. 12-2-74	Cement (600 bags)	Gate pass No.2128-30—Party's sig. available
8.	9985	-do- 11-2-74	-do- (200 bags)	Gate Pass No.2127—Party's sig. available
9.	9984	Tiger Locks Ltd. 11-2-74	Cement (200 bags)	Gate Pass No.2126—Party's sig. available
10.	9956	Mr. Chaman Lal Arora 25-1-74	Cement (20 bags)	Gate Pass No.1976—Money Receipt No. 395.
11.	9952	Surpanch, Mullahera, 17-1-74	Cement (60 bags)	Gate Pass No.1933—Money Receipt No. 379.
12.	9948	Tiger Locks Ltd. 14-1-74	Cement (800 bags)	Gate Pass No.1907, 1909, 1910 & 1911—Money Receipt No.373
13.	9945	-do- 12-1-74	Cement (200 bags)	
14.	9902	Ansal Housing & Estates P. Ltd., 21-12-73	Cement (150 bags)	Party's signature available.

Of the parties mentioned in the above chart, the following—A. R. Varma, Sales Executive of Tiger Locks Limited; Rajinder Sharma, Store Keeper in Ansal Housing and Estates Private Limited; Mai Chand, ex Sarpanch, Mullahera Village Panchayat have filed affidavits before the Commission admitting the transactions. Shri Rama Nand, Partner of Rama Industries, and S. D. Diwan were examined and they affirmed the transactions mentioned in the chart against their names. However, Shri G. S. Aneja, Proprietor of Surin Engineering Works, Faridabad, who was also examined denied that he received any cement from Maruti Limited and stated that the signature appearing in the records of the company against receipt of 20 bags of cement was not his. Evidence has been adduced in respect of one more transaction which does not figure in Trilochanjit Singh's chart. This was the transfer of 500 bags of cement to Gurgaon Municipality. R. S. Duggal formerly Administrator, Gurgaon Municipality and Bhim Singh, an Overseer, Gurgaon Municipality, have filed affidavits before the Commission stating that the municipality received 500 bags of cement from Maruti Limited in May and June 1973. A. D. Kolhatkar, Manager, Personnel and Factory Administration, Maruti Limited, also refers to this transaction in his affidavit. Trilochanjit Singh has said that these bags of cement could not have been taken out of Maruti's store and transferred to the different parties without the concurrence of Shri Sanjay Gandhi.

The steel and cement sold by Maruti Limited were purchased by the company out of advance taken from the Punjab National Bank against hypothecation of these materials and the conditions of the loan did not permit the company to remove the hypothecated materials except against proportionate payment.

COAL

Coal is the remaining controlled commodity relevant in this context.

On December 23, 1971 Maruti Limited was granted a brick kiln licence by the District Food and Supplies Controller, Gurgaon, for manufacturing bricks for the construction of the company's factory building. On or about March 16, 1972 Shri L. C. Gupta, who was Director of Industries, Haryana at the time, handed over to Shri H. D. Bansal, then Director, Food and Supplies, Haryana, a copy of a letter dated January 31, 1972 addressed by Maruti Limited to the Director of Industries requesting him to allot to them "slack coal to the tune of 12 wagons per month (i.e. 288 tons)", Bansal made over the letter to S. P. Bhasin, Deputy Director in the Food and Supplies Department, Government of Haryana, to deal with. On the copy of the letter Shri Bansal made the following endorsement : "Given to me personally by Director of Industries, Shri L. C. Gupta, please take action urgently". Shri L. C. Gupta has deposed that the original of this letter was not received in his Directorate though the letter is supposed to have been addressed to him. He has stated how he came in possession of the copy that he handed over to Bansal : "I recall that this letter was received by me from Shri Mehtani [Officer on

Special Duty to the Chief Minister Shri Bansi Lal] Shri Mehtani rang me up one day sometime in the forenoon stating that he had sent through a messenger a letter of Maruti Limited addressed to me as Director, of Industries requesting for allotment of slack coal. He also told me that the C.M. had desired that action should be taken on the letter very urgently. I told him that the matter concerned the Directorate of Food and Civil Supplies and that I in my capacity as Director of Industries was not concerned with it. Shri Mehtani told me that since he (Mehtani) was going to Delhi and as Shri Bansal, Director of Food & Supplies, was located in the same building as the Director of Industries, I may pass it on to Shri Bansal for doing the needful. I accordingly handed over the letter personally to Shri Bansal and told him about the message received from Shri Mehtani". However, the original of the letter is found in the life of the Directorate of Industries, Haryana. It also appears from the file that on February 24, 1972 a reply was sent to Maruti Limited by the Assistant Director for Director of Industries advising the company to take up the matter with the Director, Food and Supplies, Haryana, Chandigarh.

Shri Bhasin drew up a proposal on the same day in which he stated :

- (i) That the Chief Engineer, P.W.D. had informed the Director, Food and Supplies, a few days earlier that P.W.D. did not require any slack coal in Gurgaon District and therefore the company's requirement could be met out of the "incoming supplies" without any difficulty.
- (ii) That one rake of slack coal had been included for Ballabgarh for the month of March 1972 out of which 12 wagons could be directed to be allotted to Maruti Limited for March 1972.
- (iii) That a telegram be sent to Calcutta for the allotment of 12 wagons to the company for the month of April 1972 and that 12 four wheeler wagons be included for the company from 1972 onwards till the company's requirements were satisfied.

Shri Ishwar Chander Gupta, Chief Engineer, P.W.D. has denied in an affidavit that he gave any such information as alleged by Bhasin to the Director, Food and Supplies. In fact, according to Gupta, P.W.D. did require slack coal in Gurgaon because "during the relevant period viz. 1971-72 the P.W.D. was experiencing great difficulty to accomplish the programme for the construction of roads and buildings in the State of Haryana for want of bricks all over the districts including the district of Gurgaon".

Bhasin has filed an affidavit, affirmed on December 21, 1978. He says that the system of sponsoring slack coal had been in force since the creation of Haryana State and that for several years since then "coal was being brought to the State by coal agents who undertook to invest the entire cost of the coal as well as movement from the collieries and the State helped them by recommending to the railway authorities

allotment of railway rakes in their favour so that the requirements of the brick kiln owners could be met without any difficulty. The railways themselves would not allow any wagons to the coal agents without necessary recommendations from the States". He adds that "such recommendations were being made only in favour of coal agents who in turn would declare the arrival of the coal to the District Magistrate as well as the District Food and Supplies Controller for arranging their further distribution. The coal agents were not free to dispose of the coal directly. The District Magistrate/District Food and Supplies Controller would allot the slack coal to the brick kiln owners on a rotational basis....". Bhasin admits that there was "no direct sponsorship of any brick kiln owner to the railways for allotment of coal wagons" and the recommendation to the railways to allot wagons in favour of Maruti Limited was a "departure" from the normal policy and practice. But that was what he proposed. Bhasin's proposal for the allotment of 12 wagons for the month of March 1972 out of the incoming supplies was approved by Shri Bansal. According to Bansal he "reserved the decision on his [Bhasin's] proposal to sponsor the firm directly to railway authorities for allotment of wagons" until he discussed the matter with the Secretary of the Department. Later, after a discussion with Shri Din Dayal Sharma, Secretary to the Department of Food and Supplies, Government of Haryana, Bansal approved the proposal to sponsor Maruti Limited directly to the railways. When Shri Din Dayal Sharma was confronted with Bansal's statement, he first stated that the matter was several years old and that he did not remember anything about it, but later he admitted that Bansal had mentioned to him "something about the party being important and the need for caution in dealing with the matter". All of them, Shri Din Dayal Sharma, Shri Bansal, and Shri Bhasin have admitted that there was no other instance of a party who was not a coal agent being allotted wagons as done in the case of Maruti Limited. On the same day, March 16, 1972, Bhasin wrote a letter to Maruti Limited requesting the company to intimate their total requirement of bricks. On March 16, Bhasin also wrote to District Magistrate, Gurgaon, informing him about the allotment of 12 wagons of slack coal to Maruti Limited during March 1972 and requesting him to arrange the supply out of the incoming slack coal to Gurgaon District. On April 1, 1972 Maruti Limited replied to Bhasin's letter stating that their total requirement of bricks upto December 1974 was 2 crores and 60 lacs. District Magistrate, Gurgaon, Shri V. S. Ailawadi received Bhasin's letter on March 20, 1972.

Ailawadi ordered supply of 178 tonnes of slack coal to Maruti Limited out of the dumped coal at Ballabgarh although the decision had been to allot coal

to Maruti out of the stocks to be received. However, after Ailawadi's attention was drawn to this decision, he directed that the quantity allotted should be deducted out of the future allotment to this company. Thereafter Ailawadi appears to have made an allotment of five box wagons of coal to Maruti Limited by his order dated April 11, 1972 out of the coal received by the Executive Engineer, P.W.D. (E&R), Palwal through M/s Khas Khajura, coal agents, Calcutta. This order was again revised two days later, on April 13, and the allotment was raised to eleven box wagons. Eleven box wagons work out to roughly 28 wagons [four wheelers]. Thus the allotment ordered by Ailawadi in favour of Maruti Limited in April 1972 was much in excess of the authorisation sent by the Directorate of Food and Supplies. Shri Bhasin is unable to say what considerations prevailed with Shri Ailawadi in making this allotment. It appears from the evidence of Shri S. L. Behl, District Food and Supplies Controller, Gurgaon, that the increase in the number of wagons from five to eleven in favour of Maruti Limited was made possible by reducing the allotments made to six coal agents, and the result was that "some of the original allottees were now given reduced quantity, the only party who gained substantially in this process was Maruti Limited". Asked to explain Shri Ailawadi first tried to hedge by saying that he did not know how the allotment to Maruti Limited came to be revised from five to eleven box wagons. He then took up the position that "it was certainly within the power of the District Magistrate to exceed the allotment", but he did not say that Maruti Limited approached him for raising the quota. Asked why he allotted box wagons instead of four wheelers as contemplated in the decision of the Directorate of Food and Supplies, Ailawadi tried to argue that the quota of twelve wagons fixed by the Director of Food and Supplies did not indicate the type of the wagon, which might be a four wheeler or a box wagon. It is too much to accept that when only 'wagon' was being mentioned without anything more, Ailawadi had any justification to take it as a box wagon. Even Maruti's application mentioned twelve wagons per month and not box wagons.

The supply of excess quota of slack coal to Maruti Limited and sponsoring Maruti Limited, not a coal agent, directly to the railway authorities for allotment of coal wagons are clear instances of undue favour shown to the company. What Maruti Limited, a brick kiln owner and not a coal agent, gained by being directly sponsored to the railways for allotment of coal has been stated by S. P. Bhasin : "This had the effect of enabling only this party to get bricks at subsidised rates.... It also had the effect of sparing them of the obligation to pay sales tax and other incidental charges which they would have had to pay if they purchased bricks from the open market".

CHAPTER VIII

This chapter deals with the eleventh item specified in the terms of reference which includes :

"All matters relating to the securing of accommodation, loans or other assistance from nationalised banks and other financial institutions by the said Maruti concerns, including the eligibility of the said concerns to obtain the financial assistance sought for, the standard of care with which the applications were considered and the measure of conformity to the policies, practices, rules and directives for the time being in force in regard to grant of such assistance."

The unsuccessful attempt made by Maruti Limited to get financial assistance from the public financial institutions has been described in a previous chapter. The Maruti concerns succeeded in getting financial assistance from two nationalised banks, Punjab National Bank, Parliament Street branch, New Delhi, and the Safdarjang Enclave and Mullahera branches of Central Bank of India.

PUNJAB NATIONAL BANK

MARUTI LIMITED

Of the Maruti concerns only Maruti Limited approached Punjab National Bank for assistance. In August 1971 Maruti Limited opened a current account with Punjab National Bank, Parliament Street branch, New Delhi. In the first week of December 1971 the branch manager received an undated letter signed by Shri Sanjay Gandhi on behalf of Maruti Limited asking for an interim loan of Rs. 35 lacs required for construction of their factory premises and purchase of machinery. About repayment it was said that "this may be paid out of the funds to be received from the public issue", and the company expected "to issue the capital . . . to the public by the end of April 1972". On December 6, 1971 Shri O. P. Mathuria, Manager, Parliament Street branch, forwarded the loan application to the District Manager recommending sanction of inland letter of credit with a limit of Rs. 25 lacs and term loan limit of Rs. 40 lacs against hypothecation of machinery and equipments and suggesting adjustment of the loan from the share capital to be raised by the company by June 1972. He also recommended that pending sanction of the proposal, the Parliament Street branch might be permitted to establish letters of credit upto Rs. 10 lacs. On December 13 the District Manager of the bank recommended to the Assistant General Manager sanctioning a cash credit-cum-inland letter of credit with a limit of Rs. 30 lacs against hypothecation. On the same day the Assistant General Manager put up a proposal to the Custodian of the Bank, Shri S. C. Trikha, endorsing the recommendation

of the District Manager. Shri D. Sharma, Officer on Special Duty, discussed the proposal with the General Manager and the Custodian after which Shri Sharma returned the proposal to the Assistant General Manager on December 14, 1971 with the remark "We should wait for some time". The reason behind this advice is not apparent on the record. Shri Trikha who has given evidence could not remember what the reason was after this lapse of time.

On December 30, 1971 Shri Mathuria wrote to the Manager, Loans Department informing him about the "latest development", which was that "the Central Bank of India have since opened L/Cs amounting to Rs. 10 lacs on behalf of the aforesaid company for purchase of machinery and also reported to have assured the company of any other accommodation that they may require before the share capital is duly raised". Shri Mathuria in his deposition stated that he got this information from Shri J. K. Pahuja, Manager, Finance and Credit, of Maruti Limited and that his object in writing the letter was to see that such an important client was not lost to the bank. It may be mentioned here that on November 12, 1971 Shri K. L. Kalra, Manager of the Safdarjang Enclave Branch of Central Bank of India, while forwarding to the Chief Agent of the Bank a loan proposal from Maruti Limited had said, "Punjab National Bank have approached the party and assured them such facilities at the earliest and thus they are offering every competition. Since it is a highly remunerative account with huge potentialities, we cannot afford to lose it". Ultimately on January 3, 1972 the Assistant General Manager of Punjab National Bank put up a proposal to the Bank's Board of Directors through the Officer on Special Duty, the General Manager, and the Custodian for consideration whether the bank might accommodate Maruti Limited for their interim requirements. The proposal suggested an inland letter of credit-cum-term loan of Rs. 30 lacs on hypothecation of tool room plant, machines and equipment with a margin of 25 per cent and interest 5 per cent over bank rate with a maximum of 11 per cent per annum for a maximum period of one year. The "deficiencies in the proposal at this stage" were also pointed out which indicated that the project report had not so far been completed and the share capital had not been issued. The proposal suggested three conditions :

- (i) The facility to be guaranteed by at least two of its [company's] Directors.
- (ii) The company to undertake that the account will be adjusted from the share capital.
- (iii) The company to furnish to the Bank its project report by the end of February 1972."

The proposal was considered by the Board on January 3, 1972. The Board sanctioned inland letter of credit-cum-fixed loan facility of Rs. 30 lacs on the terms and conditions suggested in the Assistant General Manager's note of January 3, 1972.

While the company was yet to avail of the facility, the Branch Manager and the District Manager recommended conversion of the term loan into cash credit facility. The Assistant General Manager put up a proposal to the Custodian on March 3, 1972 accordingly. The Custodian on March 8, made the following order : "We may agree to allow the inland letter of credit-cum-fixed loan facility by way of inland letter of credit-cum-cash credit facility as recommended subject to the observance of all other terms and conditions of the sanction as laid down by the Board. . . .". The facility was allowed without an examination of the viability of the Company's car project for which the loan was asked for. On March 15, 1972 the hypothecation agreement was executed in which the goods hypothecated were mentioned as "tool room plant, machines, equipment etc. to be purchased out of the loan proposed". The charge was registered with the Registrar of Companies on May 9, 1972.

It appears that in the meantime Maruti Limited had approached the Branch Manager to reduce the rate of interest from 11 per cent to 10½ per cent. On March 14 the Branch Manager wrote to the District Manager recommending acceptance of the company's request and all the intermediate authorities having endorsed the recommendation, the Board of Directors accorded necessary sanction to the proposal by resolution No. 10 dated March 19, 1972. The project report which Maruti Limited was to have submitted by the end of February 1972 had not yet been submitted. The Board's resolution therefore added : "the Bank should insist upon getting Project Report from the company by 15-4-1972. In the meantime 50 per cent of the sanctioned loan may be disbursed and the balance amount only after the company furnished the Project Report". Shri S. C. Trikha has said that the "restriction on disbursement of the credit facility to 50 per cent was imposed by the Board in order to bring pressure on the borrowing company to submit project report urgently". The project report was submitted on April 18, 1972.

On April 14, 1972 the Chief Executive of Maruti Limited wrote to the Branch Manager asking for another loan of Rs. 60 lacs against "hypothecation of iron, steel, cement and other basic building materials". It was said that out of Rs. 60 lacs, Rs. 40 lacs was required for purchase of iron and steel only. The letter added that the company proposed to "come in the share market sometime in August-September when we shall pay off all the outstanding loans against this proposal. . .". The Branch Manager, Shri Mathuria forwarded a copy of the letter to the District Manager on April 21, 1972 recommending a fresh inland letter of credit-cum-cash credit limit of Rs. 60 lacs. On the same day the District Manager sent his recommendation to the Assistant General Manager and on April 24, the Assistant General Manager put up a proposal to the Board through the Deputy General Manager, the General Manager and the Custodian for

sanction of an inland letter of credit-cum-cash credit limit of Rs. 60 lacs against hypothecation of iron and steel materials, cement and other building materials. Two of the Directors of the company, V. R. Mohan and Sanjay Gandhi, were required to be guarantors. Some of the other conditions suggested were "(1) The advance against cement and other building materials shall not exceed Rs. 10 lacs each and bank charge will be got registered with the Registrar of Joint Stock Companies, (2) Advance to be adjusted within a period of six months out of the capital issue". On examining the Assistant General Manager's note, the Deputy General Manager observed that it was incomplete in certain respects ; these were clarified later. The Statement of Advances bearing date April 28/29, 1972 which was placed before the Board shows the net means of the two guarantors, Shri V. R. Mohan and Shri Sanjay Gandhi, as Rs. 52,06,000 and Rs. 1,00,000 respectively and mentions the following six conditions for sanction :

- "1. The advance against cement and other building materials shall not exceed Rs. 10 lacs each.
2. Bank's charge to be registered with the Registrar of Joint Stock Companies.
3. Advance to be adjusted within a period of six months out of the capital issue.
4. The limit to be released after the company gets extension from the Government for getting its (Government's) approval of Proto Type of the small car.
5. The company to give us an undertaking that the security offered to us will be excluded from the charge of any other Bank/Financial Institutions with which the company might make arrangement for working capital/long term loan.
6. Total under Inland L/C-cum-C/C limit not to exceed Rs. 60 lacs and total under all the facilities including the existing L/C-cum-C/C limit of Rs. 30 lacs not to exceed Rs. 75 lacs."

The proposal was sanctioned by the Board on May 15, 1972 for 6 months only and the decision was conveyed to the Loans Department on May 19 and on the same day the Loans Department issued the letter of sanction to the Branch Manager. This letter mentions several conditions for allowing the facility. Conditions 1 to 5 are the same as mentioned in the Statement of Advances placed before the Board. Condition No. 6 of the Statement figures in this letter as condition No. 7 and a new condition No. 6 was incorporated in the letter which reads as follows :

"The limit is sanctioned subject to the additional condition that if any stocks are required by the borrowers for use during the period of six months for which term the limit has been proposed, that can be taken delivery of only against proportionate payment".

From the available records, it does not appear who introduced this condition and at what stage. The

hypothecation agreement was signed by Shri Sanjay Gandhi as Managing Director of Maruti Limited on June 2, 1972. The charge was registered with the Registrar of Companies on July 28, 1972; the details of the materials actually hypothecated were not however communicated to the Registrar. This facility was also allowed without an appraisal of the viability of the company's car project.

With the sanction of the loan of Rs. 60 lacs, Maruti Limited became entitled to avail of two cash credit facilities :

- (a) Rs. 30 lacs for a maximum period of one year. The letter allowing this facility was sent to the Branch Manager on January 6, 1972. The validity period therefore expired on January 5, 1973.
- (b) Rs. 60 lacs for six months. The letter sanctioning the advance was sent to the Branch Manager on May 19, 1972. In this case the validity period expired on November 18, 1972.

A ceiling of Rs. 75 lacs was imposed on total withdrawals under both facilities. Both the accounts were however, allowed to continue beyond the stipulated period, even beyond the whole of the following year 1973 and no one raised any question about it. The main guarantor V. R. Mohan died on January 28, 1973, yet the operation of the accounts was not stopped, the reason being that it would 'create unnecessary unpleasantness' as Shri B. S. Puri who had succeeded Shri Mathuria as Manager of the Parliament Street Branch explained to the Regional Manager in his memorandum dated February 27, 1973 adding "we shall stop the operation if so instructed by you". A fresh guarantee by Shri Sanjay Gandhi and Shri M. A. Chidambaram, Chairman of the company was furnished in November 1973.

On November 16, 1973 Maruti Limited had already drawn Rs. 80.88 lacs i.e. Rs. 5.88 lacs in excess of the ceiling of Rs. 75 lacs. On November 20 the Branch Manager wrote to the Regional Manager saying that Maruti Limited had approached him to remove the stipulation that the advance against both the facilities was not to exceed Rs. 75 lacs at any time (condition 7) and to permit them to avail the limits to the full extent (Rs. 90 lacs). He recommended waiver of the restriction. The Regional Manager's office endorsed the Branch Manager's recommendation. The Credit Administration Division, when the matter was put up to them, pointed out to the Branch Manager that he had not given any justification for removal of the ceiling of Rs. 75 lacs and referring to the fact that the account was overdrawn by Rs. 5.88 lacs asked him to submit his remarks for allowing unauthorised accommodation to the company. The Credit Administration Division further advised the Branch Manager to "assess the genuine requirements of the company and submit a complete renewal proposal in its favour with your comments/recommendations, through your Regional Manager". It has been already stated that the validity period of both the facilities had long expired. On December 27, 1973 the Branch Manager wrote to the

Manager, Credit Administration, stating that "this case does not require submission of renewal facilities" and it was enough "to let this gap loan continue till it is adjusted out of the share capital. According to the present expectations", he said, the company "will go to the market to raise the capital.... sometime by the middle of the next year". Seeking to explain why he allowed the company to overdraw, he said : "Both the C/C-cum-L/C limits were being conducted in terms of the sanction. In the first week of November the company had to meet certain commitments and he had to accommodate them thus exceeding the permissible limit of Rs. 75 lacs. Instead of putting the accounts in order, we were requested by the Co. to get the restriction of Rs. 75 lacs removed. The case was accordingly referred to you. Our action in letting the Company cross the limit of Rs. 75 lacs was motivated out of the commercial consideration as returning the cheque unpaid would have compromised the company's position. Normally such an action is avoided in case of good parties". On February 9, 1974 the Credit Administration advised the Branch Manager to move through his Regional Manager for (i) confirmation of his action in accommodating the company beyond the sanctioned limit; (ii) extension of the facility beyond the sanctioned period stating clearly the period by which extension was required, and (iii) removal of the present stipulation requiring outstandings not to exceed Rs. 75 lacs under the two limits.

On May 10, 1974 Shri Sarwan Singh who succeeded Shri Puri as Branch Manager submitted a proposal for renewal of both the facilities for consideration of the Credit Administration. For the second facility of Rs. 60 lacs he suggested as security "existing and future machinery acquired by the company" in addition to the original security in iron and steel, cement and other building material. On May 14, 1974 a proposal prepared by the Chief, Credit Administration on the lines suggested by the Branch Manager was placed before the Board recommending (i) for the first cash credit account a limit of Rs. 30 lacs, (ii) for the second Rs. 60 lacs and (iii) inland letter of credit with a limit of Rs. 20 lacs; the total withdrawals were not to exceed Rs. 80 lacs. In cash credit account No. 2 "machinery installed or to be installed" was recommended as additional security. The inland letter of credit for Rs. 20 lacs was for establishing letters of credit relating to building material and/or machinery." The following conditions were also specified :

- (1) Advance to be adjusted either out of proposed public issue or loans received from financial institutions whichever is earlier.
- (2) Bank's charge to be got modified with the registrar of companies in respect of additional securities.
- (3) The company to submit statement of hypothecated stocks each month which should be checked by the Branch Manager regularly.
- (4) All the machinery hypothecated to the Bank, should be adequately insured with agreed Bank clause.
- (5) The company to undertake that the security offered to the Bank will be excluded from the

charge of any other Bank/Financial Institutions with which the company might make arrangement for working capital/Term Loan.

(6) Margin may be stepped up in terms of L&A Circular No. 106/73.

(7) The advance against cement and other building material not to exceed Rs. 10 lacs.

The Board considering the proposal on May 23, 1974 decided to renew the limits but at the existing level and suggested that the position might be reviewed in December 1974. The Board was particularly interested to know if the net means of the guarantors had been verified and, if so, how. One of the conditions of the renewal proposal was that the bank's charge was to be modified with the Registrar of Companies in respect of the additional security i.e., machinery installed or to be installed. No step however appears to have been taken in this direction. The result was that in the case of cash credit facility of Rs. 60 lacs, the charge registered continued to be iron and steel, cement and other building material whose value could not be adequate security against the facility.

On January 14, 1975 Shri Sanjay Gandhi, Managing Director of Maruti Limited, wrote to the General Manager, Punjab National Bank informing him that the company would go for public issue of share capital in the second half of 1975 and requesting him to remove the condition that the total withdrawals should not exceed Rs. 75 lacs. On February 12, 1975 Chief, Credit Administration, put up a proposal to the Board that "as the company's need is only by way of bridge finance and is repayable out of public issue, we may agree to the removal of the ceiling of Rs. 75 lacs subject to the condition (a) that the outstandings be adjusted out of public issue when subscribed or on release of term loans when sanctioned by financial institutions whichever is earlier; (b) under facility No. 2, advance against hypothecation of iron and steel material should not exceed Rs. 5 lacs instead of allowing advance to the full extent". This proposal was approved in the Board meeting held on February 18, 1975. Condition (b) is significant because it shows that the charge registered with the Registrar of Companies was not modified following the inclusion of the additional security in machinery. After the Board's approval was obtained, the Chief, Credit Administration, wrote to the Reserve Bank of India on February 26 requesting them to accord necessary authorisation. The authorisation came from the Reserve Bank of India in their letter dated March 31, 1975 which stated *inter alia* "We have no objection to your bank allowing the proposed bridge finance of Rs. 15 lacs to the above mentioned company for a period of six months only or till the proposed public issue of shares, whichever is earlier, provided the bank is fully satisfied on merits. The bridge finance should be disbursed after the company has made firm arrangements for the underwriting of the proposed public issue of its shares. Our authorisation is also subject to the condition that the bridge finance should be utilised by the company for the purpose for which it

had been allowed". On April 29, 1975 Punjab National Bank addressed a letter to the Reserve Bank of India, the relevant portion of which is set out below:

"We have now been informed by the company that they had applied to the Controller of Capital Issues who has sanctioned them issuance of securities privately for the value of Rs. 1,15,39,300 and in such a case underwriting arrangements are not required to be made. A copy of letter dated 16-4-75 from Controller of Capital Issues to the company is enclosed for your kind perusal.

However, the company is expected to go to market for capital issue during 2nd half of the year 1975 after getting the necessary clearance certificate from Financial Institutions and permission from Controller of Capital Issues.

Since there is sufficient gap and the finalisation of underwriting arrangements at this stage would be too early, they have stated that the necessary arrangement shall be made about two months prior to the Public Issue. They have requested us to release the bridging loan as the funds are needed by them for genuine needs.

Please reconsider your decision and allow us authorisation at an early date to release the bridging loan, as requested earlier."

Reserve Bank of India replied to this letter on May 15, 1975 saying "... we advise that we have no objection to your bank disbursing the bridge loan before the company has made firm arrangement for underwriting of the proposed public issue of its shares. Your bank should, however, ensure that the bridge loan of Rs. 15 lacs is repaid by the company out of the private issue of its shares of Rs. 1,15,39,300 for which the Controller of Capital Issues has given his approval in April 1975".

The General Manager for Maruti Limited wrote to the Chairman, Punjab National Bank, on September 15, 1976 offering to regularise the cash credit accounts by payment of monthly instalments of Rs. 1 lac and also down payment of Rs. 5 lacs provided the penal interest amounting to Rs. 67,302.17 p. already charged was refunded to them and waived for future and the rate of interest reduced to the maximum extent possible. It was said that the irregularities in the accounts were mainly due to the accumulation of interest. The Bank's Board in the meeting held on October 6, 1976 approved refund of the penal interest charged and waiver of the demand in future. The rate of interest was also reduced from 15-1/2 per cent to 14 per cent. The company paid Rs. 5 lacs and several monthly instalments of Rs. 1 lac and then discontinued payment from April 1977.

In October 1976 the Bank had formulated a scheme for promoting family planning by industrial and commercial establishments. Under this scheme a higher rebate in the rate of interest at 1/2 per cent

per annum was allowed to Maruti Limited for a period of one year from November 1, 1976. Maruti Limited had claimed that out of 100 employees eligible for sterilisation operation, 96 had already undergone the operation and therefore they were entitled to the reduction in the rate of interest. The claim was accepted without any verification. This concession allowed for five months from November 1976 to March 1977 amounted to Rs. 19,000 whereas according to the terms of the scheme sanctioned by the Board it should not have exceeded Rs. 10,000 for 96 employees of the company.

The liabilities of Maruti Limited in the two accounts amounted to more than Rs. 94 lacs in May 1977.

Summary of Reserve Bank of India's Inspection Reports: Shri D. N. Samrath, Assistant Chief Officer in the Department of Banking Operations, Reserve Bank of India, who prepared summaries of the reports of inspection conducted by the Reserve Bank of India in relation to the loan accounts of Maruti concerns in Punjab National Bank and Central Bank of India, has given evidence, and the summaries he prepared have been brought on record as evidence. The irregularities observed regarding the sanction, supervision and conduct of the two accounts of Maruti Limited in Punjab National Bank have been summarised as follows :

- (1) The credit limits were sanctioned to the company without proper pre-sanction appraisal or a study of viability aspects of the company's car manufacturing project.
- (2) Initially it was stipulated by the Board that the company should furnish its 'project report' to the bank by the end of February 1972. Subsequently, the then Chairman (Shri S. C. Trikha) authorised the release of 50 per cent of the sanctioned amount although the company had not furnished the 'project report', stipulating that it should be furnished by April 15, 1972; the residual 50 per cent of the sanctioned amount was to be released only after the report was made available to the bank.
- (3) The above credit limits were sanctioned by way of 'bridging finance', the first sanction being valid for a period of 12 months and the second one for six months. The relative advances were expected to be adjusted out of the proceeds of public issue of the company's shares. However, the company has not been able to go in for such an issue so far and the advances have remained unadjusted. The bank, however, has not considered the desirability of taking effective steps for recovery/regularisation of the advances.
- (4) The reasons and circumstances explained by the company from time to time for its failure to execute its project and raise its share capital have been accepted by the bank without an independent analysis of the

bottlenecks and problems stated to have been faced by the company.

- (5) The aggregate outstandings in the two accounts have been allowed to exceed the limit of Rs. 75 lacs continuously since 1973, the maximum amount outstanding at any time being Rs. 105.17 lacs in October 1976.
- (6) The bank did not take adequate steps to ensure during the period prior to November 1975 that the aggregate borrowings of the company from it and its other bankers (viz. Central Bank of India) did not exceed Rs. 1 crore without prior reference to Reserve Bank of India, as required by the Credit Authorisation Scheme. (This ceiling was raised to Rs. 2 crores only in November 1975).
- (7) The concerned branch of the bank did not exercise proper supervision over the operations of accounts. The company was highly irregular in the submission of the monthly statements of hypothecated stocks. On several occasions drawings were allowed in excess of the drawing power, much beyond the discretionary powers of the branch manager and such overdrawings were not reported by him to the appropriate higher authorities for ratification; during June—October 1976, the outstandings exceeded even the value of securities charged in the accounts. There are indications that the company had borrowed from/lent to other companies in which its director/s were interested as directors.
- (8) The supervision and control exercised by the branch over the securities charged to the bank was also not satisfactory. There was no record to indicate that the branch official had carried out inspections of securities at periodical intervals. The invoices relating to the machinery hypothecated to the bank could not be matched with the list of hypothecated machinery available with the branch.

Apart from the above irregularities, the summary specifically mentions the following concessions given to Maruti Limited :—

- (a) The rate of interest was reduced from 15-1/2 per cent per annum to 14 per cent per annum as from October 1, 1976.
- (b) Penal interest aggregating Rs. 0.67 lac charged in the accounts upto then was refunded and levy of such interest in future was waived.

As regards the rebate in the rate of interest allowed to Maruti Limited under the Bank's scheme for promoting family planning, it has been said :

"the bank's then chairman (Shri T. R. Tuli) authorised in November 1976 a further rebate of 1/2 per cent per annum in the rate of interest, under the bank's Family

Planning Incentive Scheme approved by the Board in August 1976 for all industrial/commercial concerns. While authorising this, Shri Tuli did not ensure that all the terms and conditions of the Scheme were duly satisfied. It is also observed that the benefit of the Scheme was availed of by/given to only Maruti Limited and no other borrower of the bank."

CENTRAL BANK OF INDIA

All the three Maruti companies, namely, Maruti Limited, Maruti Heavy Vehicles Private Limited and Maruti Technical Services Private Limited figure in the transactions with Central Bank of India. I shall start with Maruti Limited.

MARUTI LIMITED

Shri Sanjay Gandhi as Director of Maruti Limited made an undated application to the Manager, Central Bank of India, Safdarjang Enclave Branch, New Delhi, for an interim loan of Rs. 10 lacs against hypothecation of "machines and equipments". From other materials on record the application appears to have been made on or about November 12, 1971. The loan, it was said, to be "utilised to meet part of the expenditure likely to curbed towards implementation" of the company's car manufacturing project "for installation of machinery and equipment". As to the mode of repayment of the loan, the letter said: "may be determined mutually. This may be paid out of the funds to be received from the public issue". It was also stated that all the Directors of the company were "prepared to provide guarantee against their personal assets for the repayment of the said loan". Shri K. L. Kalra, Manager of the Safdarjang Enclave Branch, processed the application on November 12 not on the prescribed proposal form but on bank's letter head. Shri Kalra explains this by saying that Safdarjang Enclave Branch being a new branch, the proposal form was possibly not available, but he does not say why he considered the matter so urgent that he could not wait and send for the prescribed form from the Regional Office or some other branch office of the Bank in Delhi. He forwarded the proposal to the Chief Agent (subsequently this post was designated as Zonal Manager) on the same day recommending that sanction of the Head Office to the proposal be obtained by telex. This also suggests that he treated the proposal as very urgent. Shri Kalra did not make any appraisal of the loan proposal according to the guidelines provided in the circulars issued by the Bank's Head Office from time to time. These circulars were consolidated in the Manual of Advances published in 1972. In his forwarding letter he mentioned among other points that "Punjab National Bank have approached the party and assured them such facilities at the earliest and thus they are offering stiff competition".

From the Chief Agent's office the proposal was forwarded to the Head Office on the next day, November 13, with a request to convey their decision

by telex. There was also no appraisal of the loan proposal by the Chief Agent. As it was mentioned in the loan application that all Directors of the Company would offer guarantee in their personal capacity. Shri Bhalla, Chief Agent, had written to the respective bankers of six of the Directors of the company; Maruti Limited had then seven Directors including Shri Sanjay Gandhi. Nothing was done to verify his financial status. In the Head Office the proposal was put up before the Custodian of the Bank Shri B. N. Adarkar who became its Chairman and Managing Director from December 11, 1972. On November 19, the Custodian informed Shri Bhalla by telex that he would agree to sanction the proposal subject to Bhalla's submitting a report on certain points. One of the points was "willingness of at least some Directors to furnish guarantee and an indication of additional bridge finance they are going to provide". Bhalla clarified the other points after a discussion with the Directors of the company but as regards the guarantee by the Directors he informed Head Office that the other Directors wanted their personal guarantee waived and only Shri Sanjay Gandhi was prepared to furnish guarantee. On December 9, 1971 an interim loan of Rs. 10 lacs on personal guarantee of Shri Sanjay Gandhi and hypothecation of machinery purchased and to be purchased was sanctioned by the Head Office for three to four months subject to confirmation from Shri Sanjay Gandhi and Shri V. R. Mohan, another Director of the Company, that the small car project would be implemented according to the time schedule despite the state of emergency that was prevailing in the country at the time. For this loan the interest was 10½ per cent per annum and margin 25 per cent. Shri Sanjay Gandhi confirmed in writing that the car project was going to be implemented according to the time schedule.

On January 10, 1972 Shri Sanjay Gandhi executed a document hypothecating in favour of the bank "existing and future machinery to the extent of Rs. 10 lacs purchased out of the said loan of Rs. 10 lacs provided by Central Bank of India". The document contains the statements: "A list of existing machinery worth of Rs. 10,10,782.54 is enclosed herewith duly signed by Shri Sanjay Gandhi". Along with this document of hypothecation Shri Sanjay Gandhi signed a guarantee form for payment to the bank the sum advanced and a letter declaring that the machinery hypothecated "were free from any encumbrance whatever". No list of machinery however appears to have been enclosed with the document. Shri K. L. Kalra told the Commission that Shri Sanjay Gandhi had furnished a list of machinery but he could not say what had happened to this list. It is not possible to accept Shri Kalra's statement in view of the following facts. A list of machinery worth Rs. 10,10,782.54 was sent by Shri Sanjay Gandhi to Safdarjang Enclave Branch of the Bank on February 23, 1972 which shows that the company had machinery worth Rs. 8,76,455.2 only in their possession on January 10, 1972 when the document of hypothecation was signed and, further, that the machinery of the value of Rs. 1,34,327.29 was procured by the company after January 10, 1972. It seems clear that Kalra accepted the document without insisting on the list and his statement that the

list was enclosed with the hypothecation agreement is not correct. Also, having regard to the condition of the loan requiring a margin of 25 per cent, machinery worth Rs. 12.5 lacs should have been hypothecated.

This loan which was sanctioned for three or four months only was opened by Shri Kalra as a C.C.M. (Cash Credit Mercantile) account. Shri G. K. Narula who was the Accountant in Central Bank of India, Safdarjang Enclave branch, at the relevant time explains the difference between a C.C.M. account and a term loan account. The term loan is sanctioned for a fixed period and it is to be adjusted within the stipulated time. "C.C.M. loan is a sort of continuous account and it fluctuates within the limit mentioned". Shri Narula further says that by treating this loan as C.C.M. account the advantage that accrued to Maruti Limited was that they got the facility of availing it for a long period beyond the stipulated time. Kalra's explanation is that as the Head Office had not classified it as a term loan, he opened it as C.C.M. account. He admits he did so without consulting the Zonal Office or the Head Office but seeks to justify his action by saying that "nomenclature of the loan" was not material but the terms and conditions according to which the loan should have been adjusted after three to four months and that it was the duty of the Branch Manager who succeeded him to recall the dues from the company. His successor Shri F. C. Khatri is dead. According to Shri Adarkar it was wrong to treat this loan as if it was a cash credit limit. Shri Adarkar says that it was enough that the transaction was classified as a loan: "a loan for three months is all the classification on earth that is required. Mr. Kalra does not require any further classification. This is a matter of common sense". According to Shri Adarkar "changing the basic character of the loan from a loan into a cash credit is a very material change" and that a man who does not understand this "does not understand banking". Shri D. V. Taneja who became Chairman and Managing Director of Central Bank of India after Shri Adarkar has also said that conversion of the loan into cash credit arrangement "was not in order", and "if the Branch wanted to convert the loan into cash credit, they should have asked the sanctioning authority for such an arrangement". Normally C.C.M. limit is sanctioned against stock in trade without any fixed period of payment and it is subject to review and renewal every year. Maruti Limited repaid this loan to the extent of Rs. 9.90 lacs on January 24, 1973 about nine months beyond the stipulated time. but as the loan had been opened as C.C.M. account the company against availed of this arrangement to the fullest extent by June 1973 and this sum was never realised from the company. On September 7, 1973 Shri Khatri who was then the Manager of Safdarjang Enclave branch wrote to the Zonal Manager requesting him to have the C.C.M. account of Maruti Limited renewed till the public issue of their shares. Shri T. N. Dastur, Zonal Manager at the time, did not, however, refer the matter to the Head Office and allowed the account to continue as it was on some assurance given by Shri Pahuja, Manager, Finance and Credit, Maruti Limited.

In February 1972 Maruti Limited had approached the bank for issuing a deferred payment guarantee for Rs. 25 lacs on its behalf. The Bank's Board rejected this request in June or July 1972 on the view that the company should approach a term lending institution for the purpose. In the meantime in April 1972 Maruti Limited had applied for a loan of Rs. 6 lacs for purchasing steel, cement etc. required for the construction of its factory and other buildings. Shri Adarkar who was then Custodian of the bank rejected the demand on April 19, 1972 but the next day when the Chief Executive Officer of the company approached him, Shri Adarkar sanctioned a key loan of Rs. 6 lacs against pledge of steel for three months only. But this was not availed of by the company as it was not considered convenient.

In August 1973 the company approached the bank for a 'bridging' loan of Rs. 1.5 crores required for financing its project and this proposal was forwarded by the bank's Mullahera branch which was opened in September 1973 and was housed in a room in the Maruti complex of buildings near the company's factory. Although the bank's Head Office processed the proposal after obtaining certain additional information from the company, it was never placed before the Board of Directors, perhaps in view of the Board's earlier direction that the company should approach the term lending institutions for such finance.

In April 1974 the company approached the Safdarjang Enclave branch of the bank to convert the key loan of Rs. 6 lacs granted to them in April 1972 which the company did not avail of, to hypothecation loan against machinery. On that day the loan of Rs. 10 lacs sanctioned in December 1971 for three to four months was still outstanding. R. L. Grover, Manager of Safdarjang Enclave branch, recommended to the Zonal Manager conversion of the aforesaid key loan of Rs. 6 lacs to C.C.M. open loan against imported machinery. Zonal Manager Shri A. B. Wadia in his turn recommended the proposal to the Head Office on May 18, 1974. Shri Wadia has explained a key loan as follows: "The principle of key loan is that the stock should remain under the effective possession of the bank and the stock should move out of the godown with the full knowledge of the bank and either on replacement by fresh stock or by payment there against". On May 23, Wadia received a letter from Shri R. M. Pradhan, Assistant Manager, Advances, Head Office, Bombay, where the loan proposal of Rs. 1.5 crores was pending consideration, stating that the bank should not make any commitments even by way of short term finance which might lead to giving the company further finance in future. This letter written on May 18, 1974 was followed by a telex on May 27 saying that the facility sanctioned in April 1972 should not be kept open for a long period and it should be treated as cancelled. Wadia says that on May 27 Pahuja of Maruti Limited saw him and pressed for immediate release of Rs. 6 lacs which, Pahuja said, was required for purchase of machinery. Wadia informed him of the direction from the bank's Head Office, Pahuja then saw Shri D. V. Taneja who was then the Chairman and Managing Director of the bank who happened to be present in the Zonal Office at the time. Shri Taneja asked Wadia to put up a note

which he did without mentioning anything about Shri Pradhan's letter or telex. Shri Taneja sanctioned a fresh loan of Rs. 6 lacs with 25 per cent margin against machinery for a period of six months. In his order the Chairman gave the following directions :

- (i) the Chief Internal Auditor should depute a Godown Inspector to check about the state of machinery ;
- (ii) the original invoices should be taken on account ;
- (iii) the machines should bear the note that they were hypothecated to the Central Bank of India ; and
- (iv) the bank's charge for additional machinery should be registered with the Registrar of Companies.

On June 28, 1974 Shri Sanjay Gandhi, Managing Director of Maruti Limited, applied to the Safdarjang Enclave branch of the bank for another loan of Rs. 6 lacs required, it was said, for making urgent payments. Shri R. L. Grover, Branch Manager, forwarded the application to the Zonal Manager with his recommendation. The Zonal Manager held up the proposal for a discussion with the Chairman of the bank who was expected in Delhi on July 19, 1974. Shri Taneja must have visited the Maruti factory some day around this date as would appear from a telex received by the Zonal Manager, Delhi, on August 7, 1974 from Head Office saying that during Chairman's last visit to the Maruti factory, the company had requested the Chairman to release a sum of Rs. 5 to 6 lacs to enable them to take delivery of some machinery and that the amount should be released, if not released already, after completing the necessary formalities. The Zonal Office was also advised to send a comprehensive proposal for the sanctioned limits aggregating Rs. 22 lacs for being placed before the Board for obtaining its confirmation.

On August 13, 1974 Shri A. B. Wadia, Zonal Manager, sanctioned a loan of Rs. 6 lacs for three months with 25 per cent margin. The Zonal Manager also directed the Branch to put up a consolidated proposal of Rs. 22 lacs for consideration. The consolidated proposal could not, however, be sent for want of required information which the company did not furnish.

It does not appear from the files that any appraisal was made of the company's requirement before the two loans of Rs. 6 lacs each were sanctioned respectively on May 27 and August 13, 1974. The loans were sanctioned on the ground of urgency pleaded by the representatives of the company. Shri R. L. Grover, Manager of Safdarjang Enclave branch, who had processed the aforesaid loan proposals, has said that although it was necessary to examine the past performance and repaying capacity of the party, it was not done in this case. He admits that while sending his recommendation to the Zonal Manager he did not mention the fact that Maruti

Limited was a defaulter in respect of Rs. 10 lacs loan sanctioned in 1971. He explains the reason : "the Managing Director of the Company was so important a personality in those days and he was so close to the Head Office and the Regional Office, I dared not highlight the past performance of this company in my recommendation". Grover has also said that Sanjay Gandhi and V. R. Mohan refused to enclose the list of machinery along with the document of hypothecation. Shri Grover "dared not withhold disbursement to the party because such action against this party could have invited troubles for me...because this was not an ordinary party, its Managing Director being the son of the then Prime Minister". He has said further that Shri Sanjay Gandhi refused to allow the name plate of the bank to be placed on the machine indicating that these were hypothecated to the bank.

Shri Sanjay Gandhi had certified before the above three loans were disbursed that the machinery hypothecated to the bank was free from encumbrance. It may be recalled that the Government of Haryana held first charge on the machinery installed on the basis of the agreement dated August 9, 1971 between the Government of Haryana and the company.

Shri R. L. Kapahi, Inspector of Godown, inspected the hypothecated stock of Maruti Limited with reference to the C.C.M. accounts of the company in Safdarjang Enclave branch of Central Bank of India on different dates in 1974 and 1975. He did not find the name plate of the bank displayed or painted on the machinery to indicate the bank's lien. On inquiry Shri Sanjay Gandhi informed him that this condition had been waived. There is, however, nothing on record to support Shri Gandhi's statement. Shri Kapahi found that the company had included the installation charges and cartage in the valuation of the machinery which was not proper, the valuation of the hypothecated stock should have been the actual value mentioned in the invoices. The borrower had not calculated the depreciation while valuing the securities which were purchased three to four years back. In view of the fact that Punjab National Bank had also sanctioned loans to this party against machinery. Shri Kapahi suggested that the lists of machinery hypothecated to the two banks should be exchanged for a clear indication of the securities hypothecated to each bank. Shri Kapahi's inspection notes were sent to all concerned including the Branch Manager and the Zonal Manager, but no corrective measures were taken.

In April 1975 the company's accounts at Safdarjan, Enclave branch were transferred to the Mullahera branch. In early May 1975 Shri P. F. Gupta took over as Chairman of Central Bank of India. A note indicating the position of the bank's advances to Maruti Limited was submitted for his sanction. On May 7, 1975 Shri Sanjay Gandhi, Managing Director of Maruti Limited, applied for cash credit limit of Rs. 15 lacs and bill discounting facility of Rs. 5 lacs for financing certain 'job works' undertaken by the company under its diversification programme. Since

the company's aggregate dues to Central Bank of India then amounted to about Rs. 25 lacs and it was enjoying limits aggregating Rs. 90 lacs with an overall ceiling of Rs. 75 lacs with the Punjab National Bank, grant of any additional facility would have required prior approval of the Bank's Board and the Reserve Bank of India. For this complete data was not available from the company and the Head Office therefore did not sanction this facility. The Head Office asked the Zonal Office to explain the position "tactfully" to the company.

On June 16, 1975 the Zonal Office recommended a cheque discounting limit of Rs. 1.75 lacs stating that the branch concerned (Mullahera) had already allowed the facility in anticipation of the sanction. While the matter was pending with the Head Office, Shri A. B. Wadia, Zonal Manager, advised that Rs. 1.7 lacs was inadequate and recommended consideration of a cheque discounting limit of Rs. 3 lacs and clean overdraft limit of Rs. 1 lac with the stipulation that the aggregate outstandings under these two facilities should not exceed Rs. 3 lacs. On July 11, the Head Office sanctioned cheque discounting limit of Rs. 3 lacs but the clean overdraft limit was rejected. However following persistent requests by the company and recommendations from the branch and the Zonal Offices, the Chairman sanctioned clean overdraft limit of Rs. 1 lac on August 30, 1975 for "occasional use". The Head Office advised the Zonal Office to ensure that the total advances to the company made by Central Bank of India and Punjab National Bank did not exceed Rs. 1 crore violating Reserve Bank of India's credit authorisation directives. On September 4, 1975 Mullahera branch wrote to the Zonal Office saying that according to its information the company's total borrowings had already exceeded Rs. 1 crore. The overdraft limit for Rs. 1 lac was therefore not released. It was released after the aggregate limit requiring prior approval of the Reserve Bank of India under the credit authorisation scheme was raised from Rs. 1 crore to Rs. 2 crores in November 1975. Even thereafter Shri H. S. Chawla Manager of the Mullahera branch, often accommodated Maruti Limited beyond the sanctioned limits for clean overdraft or for discounting cheques and not always with the prior approval of the Zonal Office.

In May 1975 the Zonal Office recommended enhancement of cheque discounting and clean overdraft limits to Rs. 5 lacs and Rs. 3 lacs respectively which were sanctioned by the Chairman. In June 1976 the company approached Mullahera branch of the bank for sanction of an overdraft limit of Rs. 15 lacs against dues from the State Transport Undertakings. The Zonal Office sanctioned a limit of Rs. 3 lacs and forwarded the proposal to the Head Office. The Head Office examined the proposal and sanctioned a limit of Rs. 10 lacs. Subsequently in October 1976 the Zonal Office recommended enhancement of this limit to Rs. 15 lacs. The Chairman approved this subject to the condition that the advance would be limited only against the dues from the State Government undertakings and a margin of 25 per cent should be maintained. The Chairman also directed a full review of the

facilities sanctioned to the company to be placed before the Board. A comprehensive note was placed before the Board at its meeting held on December 27, 1976. No additional limits for advances were sanctioned thereafter. By the end of May 1977, except the initial loan of Rs. 10 lacs sanctioned in December 1971 and Rs. 12 lacs in May and August 1974, other facilities were adjusted. For recovery of the dues amounting to Rs. 22 lacs, Central Bank of India instituted a suit in April 1978.

Shri Sanjay Gandhi demanded reduction of the rate of interest from Central Bank of India on the ground that Punjab National Bank had already agreed to reduce the rate. Although the conduct of the aforesaid cash credit/loan limits aggregating Rs. 22 lacs was never satisfactory, the company was granted concession in the rate of interest which was reduced from 16 per cent to 14 per cent with effect from September 17, 1976 under the orders of the Chairman subject to the production of a letter from Punjab National Bank confirming the reduction of the rate of interest by them. When the Manager of Mullahera branch approached Shri Sanjay Gandhi for a written confirmation, Shri Gandhi refused to produce any confirmatory letter. That however did not stand in the way of the rate of interest being reduced. Punjab National Bank reduced the rate about two weeks later, from October 1, 1976 after the bank's Board of Directors approved the proposal.

Summary of Reserve Bank of India's Inspection Reports: The Reserve Bank of India noted the following irregularities in regard to the sanction, supervision and conduct of the above facilities as would appear from Shri D. N. Samrath's summary :

- (1) The various credit facilities were sanctioned from time to time on an *ad hoc* basis without a critical assessment of the company's genuine requirements over a period of time.
- (2) The cash credit/loan limits against hypothecation of machinery aggregating Rs. 22 lacs were sanctioned for periods of three to six months but when the stipulated period was over, adequate measures were not taken by the Branch/Zonal Office/Head Office to ensure the repayment of the advance. In the case of the limit of Rs. 10 lacs sanctioned in December 1971 which was to be repaid in 3 to 4 months out of the proceeds of public issue of the company's shares, it is observed that the outstanding balance was reduced to Rs. 0.10 lac in January 1973 on account of moneys received from private issue of shares but the company was subsequently allowed to again avail of the limit to the full extent.
- (3) Part of the machinery in respect of which the above limits were granted was all purpose machinery and it appears that such machinery was mainly utilised for the manufacturing and other activities of Maruti Heavy Vehicles Private Limited, an allied concern.

- (4) On several occasions the company was accommodated for large amounts (upto Rs. 10 lacs) by way of overdrawings beyond sanctioned limits or advance granted under different heads without any sanction of regular limits, particularly at the Mullahera branch. However, this branch did not ensure that all such accommodations were duly reported to higher authorities for obtaining confirmation thereof.
- (5) The company was extended credit against cheques by way of both purchase thereof and/or allowing overdraft there against by the Mullahera branch. Although many of the cheques were drawn by the same party and in round sums, the branch did not make enquiries about the nature of transactions in respect of which they were drawn. In the case of overdrafts allowed against book-debts, it did not observe the usual safeguards of obtaining statements of outstanding debts at regular intervals, deleting long outstanding dues from the drawing power, verification of company's books, etc.
- (6) While sanctioning the additional cash credit limit of Rs. 6 lacs in August 1974 (raising the aggregate limits against machinery to Rs. 22 lacs) the Head Office had instructed that a comprehensive proposal should be submitted for being placed before the Board. However, this was never compiled and submitted. A note reviewing the various facilities was placed before the Board only in December 1976, when the various advance limits aggregated Rs. 45 lacs. Certain adverse comments made by the internal auditors/godown inspectors about the conduct/supervision of the accounts were not brought out in this note, and in the paragraph provided for bringing out such features, it was indicated that there were no such comments.
- (7) The company has availed of advances against hypothecation of machinery from Central Bank of India as well as Punjab National Bank. The internal auditors of the former bank had reported, *inter alia*, that the machinery charged to the two banks were not clearly demarcated and hence it was not possible to verify all the machinery charged to the Central Bank, the invoices relating to the machinery available on the bank's records could also not be matched with the list of hypothecated machinery.

Apart from the aforesaid irregularities, the Reserve Bank summary refers to the various concessions granted to Maruti Limited in the rate of interest, charges for collection of cheques and issue of drafts etc. which have been mentioned already.

The summary also cites instances of the "company's indifference towards the normal requirements of the bank":

- (a) In connection with the company's request made in May 1975 for additional cash

credit limit of Rs. 15 lacs and a bill discounting limit of Rs. 5 lacs, it was requested by the bank to furnish certain data but it refused to do so, stating that sufficient data had been given in connection with its application for 'bridging' loan; but that was given prior to August 1973, i.e., nearly two years ago.

- (b) In July 1974, in connection with the proposal for a cheques discounting limit of Rs. 3 lacs, the Head Office desired to know the nature of the transactions in respect of which the cheques were received by the company. The company refused to furnish these particulars stating that it was an internal matter of the company and that its sources of funds were disclosed on the face of the balance sheet.
- (c) The limits sanctioned in December 1971 and May 1974 were guaranteed by the company's Managing Director and some of the other directors. However, the Managing Director refused to extend his personal guarantee in respect of the limit of Rs. 6 lacs sanctioned in August 1974. The matter was not pursued by the bank.

Maruti Heavy Vehicles Private Limited

This company was incorporated on February 22, 1974 with Shrimati Sonia Gandhi, Shri Sanjay Gandhi, Shri Kishan Lal Jalan and Shri Om Prakash Modi as its Directors. The company was formed with share capital of Rs. 20 lacs divided into two lacs equity shares of Rs. 10 each for the purpose of assembling/manufacturing road rollers. M/s Jalan Modi Automobiles, a firm of Calcutta which used to deal in motor cars, automobile spare parts etc. was one of the dealers of the Maruti car and later became the sole selling agents of Maruti Heavy Vehicles Private Ltd. In October 1973 the firm offered to pay Rs. 28 lacs of certain imported road-roller parts and components advertised for sale by the Receiver of a company in liquidation. The offer was accepted by the Receiver on December 5, 1973. Shri Sanjay Gandhi approached Mullahera branch of Central Bank of India with a request for financial assistance of Rs. 24 lacs to be disbursed in the name of Shri Kishan Lal Jalan. This was before Maruti Heavy Vehicles Private Limited was incorporated. M/s Jalan Modi Automobiles also requested Shri D. V. Taneja, who was then Deputy General Manager at the bank's Head Office in Bombay, to grant them interim finance of Rs. 15 lacs for paying the Receiver for the road-roller parts and components. This request was conveyed to the Zonal Office at New Delhi with instructions to consider it on merits. In March 1974 Shri Jalan on behalf of Maruti Heavy Vehicles discussed the proposal with Shri Taneja and on his instruction the Zonal Manager Shri A. B. Wadia sanctioned on March 12, 1974 a C.C.M. Key Loan of Rs. 5 lacs. The conditions of the loan were that the payment should be made direct to the Receiver and original receipts issued by the Receiver should be kept on record, the company should take delivery of the pledged goods within six months from the date

of advance, all the Directors of the company must furnish personal guarantee and the progress made by the company from time to time in regard to the assembly of road rollers should be informed every month end.

On March 26 Shri Sanjay Gandhi, Director of Maruti Heavy Vehicles, requested the Mullahera Branch Manager to release the balance of Rs. 19 lacs out of the original proposal of Rs. 24 lacs. This was followed by a telephonic request from Shri Kishan Lal Jalan to Shri D. V. Taneja to sanction the limit. Shri Taneja approved the release of an additional sum of Rs. 5 lacs on cash credit pledge basis on April 1, 1975 on which date Shri Taneja succeeded Shri Adarkar as Chairman of Central Bank of India. Eight days later, on April 9, Shri Sanjay Gandhi again approached the Branch Manager to release another sum of Rs. 5 lacs "for taking further delivery of road-roller components and parts". The Branch Manager forwarded the request to the Zonal Manager on the same day. In the meantime the Head Office of the Bank sought information on certain points relating to the original proposal of Rs. 24 lacs. While the Branch Manager was in correspondence with the company on this subject, Chairman Shri Taneja sanctioned a further release of Rs. 5 lacs on April 15, 1974 on key loan basis with 35 per cent margin with a rider that any further increase in key loan facility would be considered only when the paid up capital of the company was raised to Rs. 20 lacs. It was further indicated that stocks should start moving as soon as assembly of road rollers started and the movement of stock must be reflected in the operation of the account. Three days later, on April 18, Maruti Heavy Vehicles requested the Mullahera branch for sanctioning a part limit of Rs. 5 lacs on hypothecation basis out of the sanctioned limit of Rs. 15 lacs in key loan and also for reducing the margin of 35 per cent to 25 per cent. This also was sanctioned by the Chairman adding that hypothecation facility would be allowed only in respect of goods which could not be stored in the godown.

On May 3, 1974 Shri Sanjay Gandhi requested the Manager of the Mullahera branch for release of another instalment of Rs. 5 lacs assuring him that the paid up capital of the company would be increased from Rs. 13.74 lacs to Rs. 15 lacs "in near future". The Branch Manager forwarded the request to the Zonal Manager and before the Zonal Manager's recommendations could go to the Head Office, the Chairman sanctioned the proposal on May 17, 1974 with the instruction that the money should be disbursed only after the paid up capital of the company was raised to Rs. 20 lacs and on the personal guarantee of the four Directors. But after a week the Head Office sent a telex to the Zonal Office authorising release of Rs. 5 lacs without insisting on the enhancement of the paid up capital.

On June 25, 1974 Shri Sanjay Gandhi as Director of Maruti Heavy Vehicles again applied to the Branch Manager to sanction a loan of further Rs. 4 lacs making the aggregate Rs. 24 lacs which was the

company's original proposal. The Branch Manager forwarded the request to the Zonal Manager for consideration but in the meantime the Branch Manager allowed the company to overdraw to the extent of Rs. 2.60 lacs in excess of the sanctioned limit of Rs. 20 lacs. This was subsequently confirmed by the Zonal Manager. The Zonal Manager asked the Branch Manager on August 19, 1974 to send a quarterly report on the monthwise schedule of production and sale in number and value, credit and debit summations in the cash credit account, position of the account etc. as on July 31, 1974. The Branch Manager's reply was that in spite of several attempts he had not been successful in obtaining the necessary information from the company. The company subsequently intimated that efforts were being made to collect the information asked for. On September 30, 1974 the Head Office reminded the Zonal Manager and the Branch Manager that the paid up capital of the company should be raised to Rs. 20 lacs and a certificate of the auditors of the company should be obtained. In response to the Branch Manager's query the company informed him on November 23, 1974 that its paid up capital was Rs. 15,04,000 and that the Board of Directors had decided not to raise the paid up capital to Rs. 20 lacs "due to obvious reasons". From July 1974 Mullahera Branch had allowed the limit to be overdrawn and by December 17, 1974 the company availed of Rs. 4,20,895.03 in excess of the sanctioned limit of Rs. 20 lacs only. When the Branch Manager asked the company to regularise the account, Shri Sanjay Gandhi wrote directly to Shri Taneja stating that the company was sanctioned limits aggregating Rs. 20 lacs as against the company's requirement of Rs. 24 lacs and therefore the Bank could sanction enhancement in limit to regularise the account. Shri Gandhi also stated that the company was experiencing difficulty on account of the facility being allowed only on a pledge basis and requested for its conversion into a hypothecation limit. The Head Office increased the cash credit key loan limit from Rs. 20 lacs to Rs. 25 lacs with increase in the open loan sub-limit of Rs. 5 lacs to Rs. 10 lacs on the existing security and conditions on February 3, 1975. The Directors of the company however declined to sign the letter of guarantee for the enhanced limit of Rs. 25 lacs. The Head Office instructed the Branch Manager that in the event of the Directors failing to offer guarantee for the enhanced limit, the limit should be reduced to Rs. 20 lacs. The Branch Manager reported his helplessness to the higher authorities saying that neither the company's Directors were offering their guarantee for the enhanced limit nor were they in a position to reduce the limit. Even thereafter the enhanced limit of Rs. 25 lacs was allowed to be exceeded, the maximum outstanding during the period upto December 1975 being Rs. 27 lacs. In March 1976 the Chairman approved the extension of temporary enhancement of the cash credit limit from Rs. 25 lacs to Rs. 28.50 lacs upto April 1976. This additional facility had been earlier allowed by the Zonal Manager in January 1976 for a period of one month and reference was made to the Head Office only when the company failed to regularise the account.

Though out of the sanctioned limit of Rs. 25 lacs, Rs. 15 lacs was key loan and Rs. 10 lacs was on hypothecation, it appears from the report of the Godown Inspector Shri R. L. Kapahi that the company availed almost the entire limit on hypothecation basis. Shri Kapahi who inspected the hypothecated and key loan godowns in December 1974 found that the bank's boards were not displayed on the godowns of the hypothecated stock. The godown of the pledged stock remained unlocked from 10 A.M. to 5 P.M. and the workers were found carrying their job work on the pledged stock. Ford Super Gear Box assemblies numbering 123 valued at Rs. 8,88,000 of the pledged stock were all found dismantled and there were no details of other items of the pledged stock. Many items of the pledged stock were fitted with the road-rollers of the hypothecated stock and the value of such items was counted in both.

The account was however adjusted in full in 1977.

Summary of Reserve Bank of India's Inspection Reports : The following irregular features in regard to the sanction, supervision and conduct of the credit facilities were noticed by the Reserve Bank of India :

- (1) The credit limits were sanctioned without critical assessment of the company's long term requirement. In fact, during March-May 1974 limits aggregating Rs. 20 lacs were sanctioned in four instalments of Rs. 5 lacs each as and when approached by the company. The enhancement of the limit to Rs. 25 lacs was sanctioned in February 1975 mainly for enabling the company to regularise the account which was overdrawn by over Rs. 5 lacs. The condition that the company should raise the capital to Rs. 20 lacs which was first stipulated in April 1974 and again reiterated in May 1974, was waived soon thereafter. The company's paid up capital as on the 31st March 1976 was Rs. 15.04 lacs only.
- (2) No invoices in respect of the parts/components pledged with the bank were obtained. Similarly, original receipts issued by the Receiver for Agrind Fabricators Limited were not obtained by the branch although it was required to do so in terms of sanctions. The control over storage/movement of stocks was lax. The bank's internal auditors could not verify some of the stocks because of dismantling of various materials and haphazard storage. They had also reported, *inter alia*, that no record was maintained of many items, which were taken by the company (for the remodelling of designs) without issue of Delivery orders and that certain parts pledged with the bank were fitted in the road rollers without making payment therefor; yet, their value was included in the value of the road rollers hypothecated to the bank.
- (3) In January 1975 the internal auditors reported that there was no movement of

stock since March 1974. Up to June 1975 not even a dozen road rollers were assembled, although the project envisaged assembly/sale of about 80 rollers by that time; the bank, however, does not appear to have taken up the matter with the company. The sales picked up only after August 1975 on account of orders received from various Government Departments/bodies.

- (4) The bank is not aware of the terms of agreement between the company and its sole-selling agents M/s Jalan Modi Automobiles. Sizeable amounts in round sums have been paid from the company's account to this firm and Shri Kishan Lal Jalan, but the branch is not aware of the nature of transactions involved. At times cheques drawn by M/s Jalan Modi Automobiles were discounted by the branch on behalf of the company to regularise its cash credit account. Shri Kishan Lal Jalan was operating the company's account and signing delivery orders, stock statements, etc. since the beginning but the branch obtained the necessary authority only in June 1975.

Maruti Technical Services Private Limited

This company was incorporated in November 1970 with the share capital of Rs. 5 lacs and Shri Sanjay Gandhi and Shrimati Sonia Gandhi as Directors. The object of the company was to provide technical know-how and other services connected with automobile and engineering industries. The bank granted to this company loans of Rs. 35,000 and Rs. 34,000 for acquiring motor vans in July 1974 and August 1976 respectively. These loans were repaid in June 1976 and April 1977 respectively. In January 1975 the company had approached the bank for a loan of Rs. 25 lacs for purchasing 'general purpose' machinery but did not pursue the matter after it was called upon to furnish essential data in the forms prescribed under the credit authorisation scheme. In November 1976 the Zonal office at New Delhi sanctioned a 'packing credit' limit of Rs. 5 lacs to the company for financing the export of petrol savers developed by the company. This limit was availed of to the extent of Rs. 3.25 lacs in February/March 1977 and was repaid in April 1977 through exports effected under the relative letter of credit.

From the above account it appears that Maruti Limited and Maruti Heavy Vehicles Private Ltd. were got almost whatever they asked for from the two banks. Shri H. S. Chawla, Manager of Mullahera branch of Central Bank of India from August 1973 to April 1978, who was responsible for giving some undue facilities to the Maruti concerns admits that "all requests made by Maruti Limited and its allied companies were considered at all levels at a comparatively quick speed". He says : "since Maruti Limited and Maruti Heavy Vehicles Private Limited big projects having high connections inside and outside the bank, it always worked on my mind that they

should not be given any opportunity of making complaints such as delayed processing of their proposals I thought it better to leave the matters to the better judgment and discretion of my higher bosses by sending their proposals quickly to them". He adds that he could not "resist meeting the demand of the party with whom our higher authorities were directly in touch". Shri R. L. Grover, Manager of Safdarjang Enclave branch from October 1973 to the end of March 1977, "dared not" raised any objection to the disbursement of the loans "because such action against this party could have invited trouble for him"; he was very much conscious that Shri Sanjay Gandhi was the Prime Minister's son and an "important personality in those days". Even the Head Office of Central Bank of India finding itself unable to sanction a further cash credit limit of Rs. 15 lacs asked for by Shri Sanjay Gandhi as Managing Director of Maruti Limited, advised the Zonal Office to convey their inability 'tactfully' to the borrower. The Reserve Bank of India has listed the irregularities in regard to the sanction, supervision and conduct of the accounts of Maruti Limited and Maruti Heavy Vehicles Private Limited with the two banks. None of the officers of Punjab National Bank and not all the officers of Central Bank of India who have been examined have made any such admission as Shri Chawla or Shri Grover have done; some of them must have been responsible for the irregularities pointed out. The fact that so many irregular features are present in the accounts of the same borrower (treating Maruti Heavy Vehicles as an allied concern of Maruti Limited) would suggest that these officers went out of their way to help the two Maruti concerns for which they must have had some motive, if it was not fear that made them act as they did.

Shri D. V. Taneja was appointed Chairman of Central Bank of India but his term was not renewed after one year. The way he was chosen for the office and then got rid of gives an indication of the trend of things at the time. Shri Taneja was appointed Chairman with effect from April 1, 1974. In November/December 1971 he was associated with the deliberations over the Rs. 10 lacs interim loan proposal of Maruti Limited when he was posted at the Head Office of the bank in Bombay. Before the proposal was put up to the Custodian of the bank. Shri Sanjay Gandhi met Shri Taneja in Delhi when the latter came to Delhi sometime in October/November 1971. Thereafter in January 1974 Shri K. L. Kalra who was then Development Officer in Central Bank of India, introduced Shri Taneja to Shri Kishan Lal Jalan and Shri J. K. Pahuja. On January 23, 1974 Shri Kalra arranged a meeting between Shri Taneja and Shri Sanjay Gandhi at the Maruti factory. At this meeting Shri Gandhi told Taneja that "his machinery was lying idle and he wanted to utilise it" by manufacturing or assembling road-rollers in collaboration with Shri Jalan. Shri Gandhi also wanted to know when his proposal for a loan of Rs. 24 lacs to be disbursed in the name of Kishan Lal Jalan would be sanctioned. Taneja replied that he as Deputy General Manager had no

sanctioning power. To that Shri Gandhi said that Shri Adarkar, Chairman of Central Bank of India, was due to retire shortly and that "search for a suitable person was on". On Taneja's next visit to Delhi on March 11, 1974 Kalra again took him to Sanjay Gandhi saying that Shri Gandhi wanted to "discuss his proposal for road-rollers" with him. At this meeting Shri Gandhi informed Shri Taneja that he had floated a new company called Maruti Heavy Vehicles Private Limited.

Shri Adarkar's term as Chairman of Central Bank of India was due to expire on March 31, 1974. From some papers which this Commission received from the Prime Minister's Secretariat it appears that on January 19, 1974 Shri P. N. Dhar, Secretary to Prime Minister, Indira Gandhi, recorded an internal note on the subject of a successor to Shri Adarkar as Chairman of Central Bank of India. The note runs as follows : "P.M. had mentioned to me the name of Shri Taneja in connection with the Chairmanship of Central Bank of India. As P. M. knows the Central Bank is not in a good shape. Much will, therefore, depend on the new Chairman. . . The proposal is to appoint Shri Gutta of the Union Bank as the Chairman. Shri Gutta is a very able banker and enjoys a high reputation. Shri Taneja is at the moment No. 3 in the Central Bank. . . As I have told P.M. I have checked on the relative merits and demerits of the two candidates from several sources including the Auditor-General, some officials and bankers. The proposal for Shri Gutta's appointment has already been made formally to the A.C.C. [Appointments Committee of the Cabinet] and is being submitted to P.M. by J.S.-1 separately. I would respectfully submit that this proposal may be accepted." Prime Minister Shrimati Indira Gandhi recorded the following observation on a slip of paper bearing the date March 14 (the year which is not mentioned should be obviously 1974) : "I have expressed my firm views regarding this matter. I think Taneja (underlining is Shrimati Gandhi's) should be given the post".

It is a fact that during Shri Taneja's tenure as Chairman he granted a number of facilities to Maruti Limited and Maruti Heavy Vehicles Private Limited. Shri Taneja has described before this Commission his experience in dealing with the Maruti concerns as Chairman of Central Bank of India. "The Maruti group of companies were not normal borrowers" according to him. The opening of a branch of the bank in the Maruti complex of buildings in Mullahera "was an invitation to pressures from a person who enjoyed wide Government patronage. It meant an announcement of the bank's mind that it was closely identifying itself with Maruti business". After a couple of meetings with Shri Sanjay Gandhi, Shri Taneja found that Shri Gandhi "was wanting everything to be done immediately and had no patience for rules, procedures and formalities". Shri Taneja states that Kalra who had developed a close friendship with Shri Sanjay Gandhi was exerting great pressure on him [Taneja] to "keep on releasing funds for Maruti Heavy Vehicles Private Limited". Taneja had known Kalra since the time he was posted in Delhi when Kalra also was

working in the Delhi Office. During the period between April and September 1974 Shri Sanjay Gandhi started putting pressure on him regarding various matters, one of which was that Shri Taneja "must immediately sanction the Rs. 1.5 crores loan for which proposal had been sent in December 1973". Another point on which Shri Gandhi insisted was that Kalra must be promoted. Taneja states that "the more pressure Mr. Gandhi put regarding promotion of Mr. Kalra, the greater pressure Mr. Kalra would bring on me for Mr. Gandhi". Shri Taneja admits being "quite in a dilemma whether I could take the courage of transferring Mr. Kalra" but "felt that this would not be prudent at that stage". According to Shri Taneja from September 1974 till almost the end of the year, Shri Gandhi repeatedly telephoned him or sent messages to him through Kalra that "something immediately should be done to finance his car project". As the pressure from Sanjay Gandhi continued to mount, Taneja "could not bear it any longer" and he made up his mind "to take a decision one way or the other". He got the proposal for a loan of Rs. 1.5 crores examined by various people in all its aspects and their reaction convinced him that this was not a viable project. Taneja felt that "a stage had come when I must tell him that so far and no more". Before conveying his decision to Shri Gandhi, Taneja saw the Finance Minister Shri C. Subramaniam on January 4, 1975 and explained Shri Gandhi's proposal to the Minister. He told the Minister that he had come to the conclusion that the proposal should be rejected. According to Taneja, Shri Subramaniam fully agreed with him and "also added that a snap election was round the corner. In any elections that would be held in that atmosphere, Maruti would turn out to be a millstone round the neck of the Congress party". While Shri Subramaniam was being examined before the Commission Shri Taneja's statement was put to him for his comments. Shri Subramaniam admitted having met Shri Taneja but said "I cannot recollect all those things he had stated". Shri Taneja himself conveyed his decision to Shri Sanjay Gandhi on January 5, 1975. Shri Gandhi "was very upset" and told Taneja that if Taneja put up the proposal to the Board, he "would have arrangements made to ensure that it would be passed". Finding Taneja hesitant, Sanjay Gandhi asked him to "think it over". When Shri Taneja was next in Delhi on January 24, 1975 Kalra conveyed to him that Shri Sanjay Gandhi was very angry and wanted Taneja to see him at once. Possibly this being a case of not a "normal borrower", Taneja went to see Sanjay Gandhi that night at the Prime Minister's house. Shri Gandhi who was "rude, insulting, haughty, and demanding" said that "if this was the way important clients were treated and commitments not honoured, proper people would have to be brought to head banking institutions". "This was a direct reference to me", says Taneja, "as my one year term as Chairman and Managing Director was expiring on March 31, 1975". On February 8, 1975 Shri Sanjay Gandhi spoke to him on telephone, it was "a monologue of complaints spoken in haughty and demanding language" ending with the threat that he would "deal with him [Taneja] properly". Taneja says that on the same day Kalra also conveyed to

him a message from Sanjay Gandhi which Taneja noted down in his diary; the message was, "unforeseen and dire consequences would follow for not helping Maruti".

Taneja's term was to expire on March 31, 1975. On March 22 a proposal was sent by the Secretary, Department of Banking, Ministry of Finance, recommending extension of the term of the Chairmen of six nationalised banks including Central Bank of India. For Shri Taneja the recommendation was for extension of his term for a period of four years. The recommendation was made in consultation with the Governor, Reserve Bank of India, with the approval of the Finance Minister Shri C. Subramaniam. On this proposal Shri P. N. Dhar, Secretary to the Prime Minister, recorded a note on March 31, 1975 that the file containing the Finance Ministry's proposals regarding the extension of the term of office of the six Chairmen expiring that very day "was received only this morning". The note said "P.M. is unhappy that such important proposals should be submitted for approval at the very last moment". Prime Minister directed the term of the Chairmen to be extended by one month for the time being. Thereafter Taneja's case was discussed between Finance Minister Shri C. Subramaniam and the Prime Minister. Shri Subramaniam has described the substance of the discussion in his deposition: "She said there were certain complaints against Mr. Taneja which required inquiry and therefore his term may not be continued". While Shri Subramaniam was giving evidence he was asked whether it was not unfair to drop Shri Taneja merely on the basis of some complaints made to the Prime Minister without an inquiry. Shri Subramaniam's reply was "you should realise that she was the Prime Minister". It is not clear what this meant; she herself had told the Finance Minister that the allegations called for an inquiry and not that the allegations had been proved. Shri Gutta was appointed Chairman and Managing Director of Central Bank of India with effect from May 1, 1975.

On April 25, 1975 the senior executives of Central Bank of India made a written representation urging "the Reserve Bank of India and the Government of India to consider the re-appointment of Shri D. V. Taneja as Chairman and Managing Director as we all feel that such re-appointment would be in the best interest of the institution". Shri R. C. Pochkhanawala, General Manager, was authorised to approach the "authorities and also, if possible, to place this representation personally before the Hon'ble Minister for Finance as well as before the Prime Minister with a view to conveying to them our unanimous feeling and as expressed through this representation". From the papers received from the Prime Minister's Secretariat it appears that Shri N. K. Seshan, Private Secretary to the Prime Minister, recorded a note on a sheet of paper on April 26, 1975 which reads: "Shri P. A. Narielwala sent Mr. R. S. Pochkhanawala, General Manager, Central Bank of India, with the attached memorandum. The executives of the Central Bank of India wanted to see P.M., if it was possible. I told them that P.M. was very hard pressed for time and they could leave their memorandum with me and I shall place it before her. Apart from the points made

in the memorandum, the only point he was making was that Taneja had been a Chairman only last year. He was a Deputy General Manager and was picked up by the Government to head the Central Bank of India. To drop him suddenly only after a year will have a demoralising effect on the entire institution. He made it very clear that they were not questioning the right of the Government to appoint any body to the post of Chairman of a nationalised bank". Below this note Prime Minister Shrimati Indira Gandhi added in her own hand on the same day: "There were many doubts about Shri Taneja. F.M. himself was reluctant. I overruled him in order to give Shri Taneja a chance but reports about his activities are not good. His patronising of a particular union has naturally brought him some support from the employees. But it does [not?] auger well. There is no point in my seeing Mr. Pochkhanawala. Also I have no time". She marked her note 'secret'. Thus she again overruled the Finance Minister and, on this occasion, the Reserve Bank of

India as well. On April 29, 1975 at a meeting of the Bank's Board the Directors (Taneja was absent) decided to call on the Finance Minister to press for Taneja's continuance as Chairman and Managing Director. Shri Balasubramanian, Additional Secretary, Ministry of Finance, after speaking to the Finance Minister informed Shri Taneja that the "Finance Minister could not meet the Directors in the foreseeable future".

The inquiry against Shri Taneja was ultimately dropped for want of evidence. From the facts the conclusion seems inescapable that Prime Minister Shrimati Indira Gandhi opposed the renewal of Shri Taneja's term as Chairman of Central Bank of India overruling the recommendations of the Reserve Bank of India and the Finance Minister because Taneja did not find it possible to approve Sanjay Gandhi's proposal for a loan of Rs. 1.5 crores to help Maruti Limited.



CHAPTER IX

The twelfth item in the list of matters specified for inquiry in the terms of reference relates to—

All matters pertaining to foreign collaboration agreements, contracts with foreign parties and all foreign exchange transactions entered into by all or some or any of the said Maruti concerns, including the capacity and execution capabilities of the Indian collaborating party to the agreement, the merits and fairness of such agreements, the *modus operandi* of securing such agreements and the degree of conformity to law, prescribed conditions, policies, practices, rules and regulations in relation to the entering into and/or approval of these said agreements, contracts and transactions.

Only two transactions arise for consideration in this context on the evidence received by the Commission; they are the two foreign collaboration agreements entered into by Maruti Limited, one with International Harvester of Chicago, U.S.A., and the other with Maschinenfabrik Augsburg-Nürnberg (MAN for short) of West Germany, both for the production of heavy duty trucks. In fact, Maruti Limited cancelled the agreement with International Harvester to enter into an agreement with MAN. Apart from these two agreements Maruti Technical Services Private Limited applied for and obtained licences to import a number of scientific instruments from abroad but there is no evidence that this company utilised these licences to enter into an agreement with any foreign party to import these instruments.

It may be recalled that the letter of intent issued to Sanjay Gandhi and the subsequent industrial licence granted to Maruti Limited for the manufacture of passenger cars were subject to conditions forbidding foreign collaboration or foreign consultancy agreements, and import of capital goods, components of raw materials. There was a marked fall in the demand for passenger cars and certain other types of consumer goods in 1974. The Central Government in 1975 sought to meet the situation by allowing the affected industries to diversify. Maruti Limited was allowed to manufacture Heavy Duty Vehicles, and the foreign collaboration agreements entered into by the company were treated as incidental to diversification.

The facts concerning Maruti Limited's diversification plan and the collaboration agreements may now be stated. On October 8, 1975 Finance Minister Shri C. Subramaniam wrote to Shri T. A. Pai, Minister of Industry and Civil Supplies, stressing the "urgent need to make a critical study of the possibilities of diversification" in regard to the industries affected by the slump. Shri Pai in reply suggested setting up a study

group to examine the problem and to make appropriate recommendations for the rehabilitation of the industries. On November 19, 1975 a study group headed by Shri Mantosh Sondhi, Secretary, Department of Heavy Industry, was set up. Shri S. M. Ghosh, Joint Secretary in the Ministry of Industrial Development, Department of Heavy Industry, was its Member Secretary. One of the decisions taken by the study group in a meeting held on December 30, 1975 was that passenger car units should be allowed to diversify to other vehicles, industrial machinery, and machine tools. However, even before the study group met, Joint Secretary, Shri S. M. Ghosh, recorded a note on the departmental file on December 19, 1975 that "the following passenger car units viz. Premier Automobiles Ltd., Hindustan Motors, Standard Motor Products of India and Maruti Limited may be allowed this concession (diversification) immediately", but on condition that "they will not need any imported equipment or foreign collaboration and there will not be any substantial addition to capital equipment barring balancing equipment". Shri Mantosh Sondhi, Secretary, Department of Heavy Industry, saw this note on December 22, 1975 and added his own comment "I would suggest that we should issue a notification to cover diversification so far as the passenger car manufacturing units are concerned. A notification couched in general terms should be adequate; it is not necessary to specify each car unit by name". The Minister Shri T. A. Pai approved the note on December 25, 1975. On the file, when it was on its way back to Shri S. M. Ghosh the next day, Shri Sondhi added : "please let me have a look at the notification before it is released". After the file reached Shri Ghosh, he summoned Shri Kannan, Under Secretary in the Department of Heavy Industry working as Officer on Special Duty to the Minister of Industry and Civil Supplies Shri T. A. Pai, and asked him to put up a draft press note. Shri Kannan accordingly drafted a press note which was put up to Ghosh on December 30, 1975 for approval. Ghosh saw Kannan's draft on the same day and marked it to Mantosh Sondhi in deference to his request, before sending it to the Department of Industrial Development whose job it was to issue the press note. Sondhi found the draft press note to be in order and marked the file to Ghosh also on the same day, December 30. Next day Ghosh sent the file to D. K. Saxena, Joint Secretary, Department of Industrial Development, for issuing the press note. However, the press note that was issued on January 3, 1976 did not contain the conditions barring imported equipment, foreign collaboration and substantial addition to capital equipment. The versions of Shri Kannan and Shri S. M. Ghosh differ as to how this happened.

According to Kannan he lost touch with the case after the file was sent by Ghosh to D. K. Saxena, Joint

Secretary, Department of Industrial Development, for issue of the press note until Shri Bharat Bhushan, Under Secretary, Department of Industrial Development, who was dealing with the matter came to see him three or four days later. Bharat Bhushan informally showed him a draft press note which had been finally cleared by S. M. Ghosh, D. K. Saxena and R. V. Raman, then Secretary, Department of Industrial Development. This draft did not contain the conditions mentioned in S. M. Ghosh's note dated December 19, 1975 which Kannan had incorporated in his draft. Bharat Bhushan told him that a decision had been taken by the aforesaid senior officers to omit these conditions. It appears from the file that Bharat Bhushan recorded the substance of the discussion that Ghosh had with Saxena on the subject of the press note on January 2, 1976, and this shows that Ghosh suggested that the conditions need not be incorporated in the press note. Kannan says that at the request of Bharat Bhushan he scrutinised the draft that Bharat Bhushan had brought and made certain corrections therein but these are not relevant for the present purpose.

The account Shri S. M. Ghosh has given to explain the deletion of the conditions from the press note as published makes Kannan largely responsible for it. This is what Ghosh says in his statement before the Commission: "After the orders of the Secretary and the Minister were obtained I gave it (file) to Shri S. Kannan . . . to draft the notification. Shri Kannan came back to me to say that the conditions suggested by me (in the note dated 19th December 1975) did not figure in any of the press notes issued earlier allowing diversification to machine tools, industrial machinery, electrical equipments and foundry industries. He enquired of me if it would be correct to incorporate these conditions in a particular industry when these conditions did not figure in any of the earlier notifications. I asked him to check up again if the earlier relevant notifications did have these conditions. He came back to me after checking up that they did not. Then I told him that in that case it will be better if the press note was drafted on the lines the earlier press notes were framed and I would show it to the Secretary before it is sent to the Department of Industrial Development. Accordingly Shri Kannan put up a draft on December 30, 1975 which I marked to the Secretary. After Secretary had seen, I sent it to the Industrial Development for issue of press note. After the receipt of the press note I was asked by the Joint Secretary Shri D. K. Saxena to come over to his room for a discussion. As I went there, Shri Saxena pointed out that the draft press note did not contain the conditions He also said that the earlier notifications for diversification prescribed much simpler procedure. I said that if the notifications issued in respect of industrial machinery, machine tools and other industries did not prescribe these conditions, they should not be prescribed for this notification also. A note of these discussions was recorded on 3rd January, 1976 and routed through me to the Secretary, Industrial Development. On approval by the Secretary, Industrial Development, the press note was issued".

Thus Shri Ghosh suggests that he allowed himself to be persuaded by Kannan who first questioned the

propriety of incorporating in the press note the conditions mentioned in Ghosh's note dated December 19, 1975. According to Ghosh the press note drafted by Kannan did not contain these conditions. In fact the draft press note which is now in the file does not contain the conditions. Kannan however has stated that the draft now found in the file was not the one prepared by him. Kannan denies that there was any such discussion as alleged by Ghosh regarding the absence of similar conditions in the previous notifications. Kannan asserts that the draft he prepared contained the conditions included in Ghosh's note of December 19, 1975.

It is not possible to accept Shri Ghosh's version of the affair. Shri Sondhi has told the Commission that the draft press note which he saw on December 30, 1975 contained all these conditions and that the draft press note which is now in the file was not the one which he had seen and approved. No reason is suggested why Sondhi should approve a draft that was not in accordance with the policy which both he and the Minister concerned had earlier approved; it is also a little difficult to accept that Kannan, an Under Secretary, who was given the work of drafting the press note on the basis of that policy would propose to the Joint Secretary to deviate from it. It seems that the draft made by Kannan had been removed from file and was replaced by another which had not been seen by the Secretary. Shri Ghosh's claim that there was only one draft which is the one that is now in the file cannot be accepted in the circumstances stated above. The draft now found in the file was not the one prepared by Kannan, there is, however, no evidence how it found its way into the file. Shri Sondhi pointed out the hollowness of the attempt to justify the exclusion of the conditions from the press note on the ground that the previous notifications issued in respect of similar other industries did not contain such conditions. Sondhi explained that there could be no uniform pattern for all press notes, and the claim that the previous press notes did not contain the conditions, even if it were true, was hardly any justification for not incorporating them in the notification issued in this case, specially when both Sondhi and the Minister concerned had approved the conditions as part of the diversification policy. It was not within the rights of either Shri Ghosh or any other officer to change the draft to deviate from the policy decided on. "It is an accepted practice" Sondhi said "that whenever a draft notification is put up on file, it has to be strictly in conformity with the policy decision taken on the file. If the officer was to make a departure from the policy decision taken on the file and that too at the level of the Minister, it is his duty to bring it out very clearly in his note giving reasons why a change is necessary and seeking my approval as well as that of the Minister". Shri T. A. Pai, then Minister of Industrial Development, has said that the notification that was issued excluding the conditions had not been brought to his notice and did not have his approval.

Shri S. M. Ghosh also sought to defend the exclusion of the conditions by saying that the "substantive decision of the Minister was to allow diversification to the passenger car industry and that decision remained unchanged" and that the conditions subject to which

diversification was allowed was only "the procedural part of it" which was not incorporated in the press note as ultimately published "to bring it in line with similar other press notes relating to other industries". This is a wholly untenable argument. When a thing is permitted to be done subject to some conditions, the conditions are an integral part of the decision, and it seems absurd to call them the "procedural part". The defence strikes one as an afterthought which further affects the credibility of Shri Ghosh's version.

The press note, as edited by S. M. Ghosh, was published on January 3, 1976. On May 6, 1976 Shri S. M. Rege, Secretary of Maruti Limited, in a letter to the Joint Secretary, Ministry of Industry and Civil Supplies, Department of Industrial Development, said that "taking advantage of the press note" Maruti Limited had "decided to take up the manufacture" of heavy trucks of the capacity of 50 tonnes GVW and above in collaboration with M/s International Harvester of Chicago, U.S.A. A formal application dated May 4, 1976 accompanied the letter from which it appears that the details of the project were still being worked out. A few days later, on May 10, 1976 Maruti Limited applied in the prescribed form for approval of their collaboration with International Harvester of Chicago. Next day, May 11, the Secretary of Maruti Limited wrote again to the Joint Secretary, Ministry of Industry and Civil Supplies, conveying some additional information in connection with their application for diversification. "We hereby confirm that the production of cars at present per year is to the tune of 50 lacs"; this obviously was a reference to the value of the cars produced. It was further stated that the demand for the heavy trucks which they proposed to manufacture would be 500 in number per year. Out of which "Government orders will be to the tune of 250 trucks per year" and the "balance demand will be from the public undertakings and private sector".

Before proceeding to describe how Maruti's applications were dealt with, it is necessary to state how an application made by Unimac Corporation of Ahmedabad for industrial licence to manufacture a similar item in collaboration with certain American firms, was disposed of a few months before Maruti applied. On February 10, 1975 Unimac submitted a composite application for an industrial licence for the manufacture of :

- (i) Heavy Duty Truck chassis 200 HP to 500 HP, highway and off highway type, for rated capacities 14000 Kgs. (14 tonnes) to 60000 Kgs. (60 tonnes) ;
- (ii) Heavy Duty Axles and Transmissions, with foreign collaboration.

It was stated in the application that vehicles of the aforesaid type were being used "for such purposes as haulage vehicles, fire crash trucks, mobile crane mounting purposes, aerial ladder use, truck tractor combinations, oil field equipment mounting and various and numerous other purposes for organisations like ONGC

(Oil and Natural Gas Commission), Priority projects, Air Force, Civil aviation, Fire departments and, particularly, Defence". These requirements, it was stated, were being met through "an aggregate import of average 500 to 600 such type of special duty vehicles". In the preliminary survey report that accompanied the application Unimac said that their "proposed scheme is aimed at making the industry self-sufficient in a phased programme of four years". The applicant also undertook a commitment of 20 per cent of output for export which was proposed to be stepped up later.

The procedure normally followed when such applications were received from the parties has been described by E.V.L. Prasada Rao, Section Officer in the Department of Industrial Development, in his affidavit dated February 2, 1979 : "copies of the application when received from the parties are initially dealt with in the Central Receipt and Despatch Section of the SIA (Secretariat for Industrial Approvals). That section after initial scrutiny sends the copies to various scrutinizing agencies" who are "expected to forward their comments within a period of one month approximately to SIA and administrative Ministry". The case is thereafter considered by the Screening Committee which is headed by the Joint Secretary of the administrative ministry, and in this case it was Shri S. M. Ghosh, Joint Secretary of the Department of Heavy Industry. After the matter is considered by the Screening Committee a summary is prepared in SIA for consideration of the Project Approval Board. After the Project Approval Board has considered the matter the minutes of the meeting are submitted to the Minister and after he has recorded his final decision the minutes are forwarded to the administrative ministry. Unimac's application was referred by SIA to the scrutinizing agencies on March 26, 1975 and April 16, 1975 was the date fixed for the Screening Committee meeting. However, on April 16, Shri R. Krishnaswamy, Director, Department of Heavy Industry after a discussion with Shri S. M. Ghosh, Joint Secretary, recorded a note saying that the meeting was postponed and that the Joint Secretary had stated that this was a case "for rejection". Shri Krishnaswamy in his affidavit dated February 5, 1979, says that on May 21, 1975 he discussed the next date for the Screening Committee meeting with Shri S. M. Ghosh. Shri Ghosh told him that there was no need for a meeting of the Screening Committee but a note should be prepared and sent to SIA recommending the case for rejection mainly on the ground that there was no market for the type of vehicles proposed. Shri Krishnaswamy recorded a note accordingly on the basis of which Shri V. P. Gupta, Under Secretary in the Department of Heavy Industry prepared an Office Memorandum on May 31, 1975 which was sent to SIA. The Office Memorandum said : "It is felt that there is no market at present for the type of vehicles proposed to be manufactured by the above applicant. It is also learnt that the applicant has submitted another proposal to the Ministry of Commerce for setting up an assembly plant in the Kandla Free Trade Zone on 100 per cent export basis and it has been approved by that Ministry. It will, therefore, be seen that setting up of a unit for the proposed items of manufacture for internal sale alone will offer no scope for a viable unit. In the circumstances.

his Department recommends rejection of the proposal". At the time Shri Ghosh is said to have indicated that there was no market for the type of vehicles proposed to be manufactured, he had before him the views of DGTD, Council of Scientific and Industrial Research (CSIR) and also of the Development Commissioner, Small Scale Industries. All these scrutinizing agencies had recommended the proposal. DGTD in particular touched upon the demand aspect fairly extensively : "Heavy duty truck chassis is, at present, being imported for various applications such as a pulling unit for heavy duty trailers, chassis for crash fire tenders, heavy duty drilling rigs, oil field trucks, heavy duty recovery vehicles etc. The total annual requirements would be of the order of 100 Nos. to 150 Nos. These vehicles can also be made suitable for off the highway duties". Contrary to the views expressed by these scrutinizing agencies, Shri S. M. Ghosh held that there was no market for such vehicles. No exercise of any sort appears to have been conducted in the Department of Heavy Industry to support the view expressed by Shri Ghosh. It appears from the affidavit of Shri V. P. Gupta, affirmed on February 7, 1979, that the "sources of demand" referred to by the applicant *viz.* Defence, Civil aviation, ONGC etc. were not asked whether they had any requirement for such vehicles before Shri Ghosh decided that there was no demand for them. Shri Krishnaswamy in his affidavit dated February 5, 1979 says : "In the specific case, although it would appear that no examination was made, the decision which Shri Ghosh gave must have been based on his knowledge for need for a unit as applied for . . .". Thus it was mainly Ghosh's idea that Unimac's application should be rejected and it was he alone who offered the view that there was no demand for such vehicles in the face of the views expressed by DGTD which, as Ghosh has himself admitted, was the "principal technical adviser to Government on technology and capacity".

On July 21, 1975 the Project Approval Board also recommended rejection of Unimac's proposal. Shri T. A. Pai, Minister of Industry and Civil Supplies approved the recommendation on August 6, 1975. Shri Khasgiwale of Unimac made a representation against the order of rejection on October 9, 1975. In this representation he attempted to meet the two points on which the rejection of his proposal was based. As to the question of demand he said : "The Defence alone needs around 400 to 500 vehicles of this type which I have suggested, and the recent requirement indicates that immediately they need 60 fire crash chassis of 400 HP for airport operations, and 400 vehicles with wrecker attachments for desert and off highway operations Their present requirement of [chassis of] 15 tons and above is therefore in a vicinity of 500 vehicles a year. Organisations like International Airport Authority, Director General, Civil Aviation, Oil and Natural Gas Commission and so many other buyers need vehicles of this type regularly The requirement of present mobile crane manufacturers is also handicapped due to non-availability of a suitable crane carrier chassis". As regards the proposal of assembly plant at Kandla Free Trade Zone, he clarified that his application was cleared by Ministry of Commerce for setting up the plant on 100 per cent export basis for 50 vehi-

cles only. This representation was also rejected by the Department of Heavy Industry on December 24, 1975.

On May 12, 1976 Shri S. M. Ghosh handed over the application for diversification received from Maruti Limited and the two letters of the 6th and the 11th May, 1976 to Shri V. P. Gupta, Under Secretary, and asked him to process the matter personally, normally such applications used to be passed on to the concerned section for processing. The procedure for processing the applications for diversification in the passenger car industry at the relevant time was laid down in circular No. 4 (1976 series) of the Department of Industrial Development according to which the applicants had to submit five copies of the application in the prescribed form, one copy each for the Directorate General, Technical Development, Development Commissioner (Small Scale Industries), and the Department of Company Affairs who were required to send their comments within two weeks. Even the press note that was issued required the applicants to file five copies of the application. Maruti Limited, however, submitted only one application in the prescribed form. Shri V. P. Gupta, Under Secretary, says that having regard to "the sensitive nature of the case", he "felt that calling for additional copies of the application before processing it was not insisted on". In terms of the aforesaid circular, applications for diversification from large business houses registered under Monopolies and Restrictive Trade Practices Act (hereinafter called MRTP Act) were to be considered by a Task Force; other applications, the Joint Secretary was competent to dispose of. Maruti Limited was not registered under the MRTP Act but Shri S. M. Ghosh decided in consultation with Shri V. P. Gupta that it would be advisable to consult the Task Force before taking a decision. Accordingly Shri Ghosh asked Shri Gupta to prepare a note for circulation to the Task Force in consultation with Shri K. Sankaranarayan, Development Officer in the Automobile Division of the Directorate General of Technical Development.

Why did Ghosh think it advisable to consult the Task Force though it was not necessary? He has said that it was the "sensitive nature" of the case which prompted him to involve the Task Force in the decision. It may be noted that the Task Force had six members including S. M. Ghosh as its Chairman and Sankaranarayan and V. P. Gupta as members. The note prepared by V. P. Gupta for the Task Force with the help of Sankaranarayan whom Ghosh had asked Gupta to consult, reflected the views of Gupta, Sankaranarayan and, it is reasonable to think, also of S. M. Ghosh, and they constituted half the numerical strength of the Task Force. There seems to have been no doubt as to the opinion the Task Force was likely to express. In these circumstances, it seems the motive in involving the Task Force in the decision was only to allay suspicion by apparent sharing of responsibility.

V. P. Gupta's note for the Task Force was ready the same day Shri Ghosh had asked him to prepare it—May 12, 1976. The note justified the proposal for

diversification on the ground that there was considerable demand for heavy trucks of 50 tonnes GVW and above that Maruti Limited intended manufacturing. Paragraph 3 of V. P. Gupta's note said: "The heavy trucks of 50 tonnes GVW and above are off the highway vehicles required by project authorities for transportation of heavy materials and equipments. They can be used as tractors for heavy trailers required by various projects. They are also required by Defence for use as Recovery Vehicles and Carriers. With the emphasis on off-shore drilling for oil exploration in the country, there would be increased demand for these vehicles of higher pay-load capacity. These types of vehicles are also used by ONGC for their drilling rigs equipments. Presently vehicles in this range are not manufactured in the country. The entire requirements for such vehicles are, therefore, met by import. The manufacture of these vehicles in the country will, therefore, result in direct import substitution from the very beginning It is, therefore, essential that a beginning should be made with the manufacture of heavier off the highway vehicles as early as possible". What V. P. Gupta did not mention in his note was that the demand for vehicles in the higher GVW ranges 50 tonnes and above, which Maruti proposed to manufacture was comparatively low. Shri K. Ramakrishna Rao who was Development Officer in the Office of the DGTD at the relevant time in his affidavit dated February 3, 1979 states: "with reference to the nature of the demand for the various organisations envisaged, the demand for vehicles below 50 tonnes would be about 75 per cent and for those above 50 tonnes GVW, it would be about 25 per cent".

A meeting of the Task Force was held on May 17, 1976 where it was unanimously agreed that Maruti's proposal for diversification should be approved. The extract from V. P. Gupta's note for the Task Force quoted above appears to be a restatement of the points made in Unimac's application and their subsequent representation both of which were rejected. A thing which was said to have no demand, in a matter of months became a much needed commodity. V. P. Gupta's note does not mention the relevant fact that only a few months earlier they had rejected a similar proposal from Unimac Corporation of Ahmedabad. By way of explanation Gupta says in an affidavit affirmed on February 7, 1979 that he was "not able to connect the two cases presumably as GVW was not specifically mentioned" in Unimac's application and "being a non-technical person" he "did not co-relate the axle rating and GVW rating". If this is true, then he did not know what he was writing about in his note, but the explanation does not seem to be at all convincing. Gupta admits in his affidavit that the "sources of demand" mentioned in both cases were the same, viz., Defence, Civil Aviation, ONGC etc. and there was also no difference in the use to which the vehicles could be put as stated by the either party. Even as a "non-technical person" the similarities between the two cases could not possibly have escaped him. What finally demolishes the explanation is that in the second paragraph of the representation submitted on October 9, 1975

by Shri Khasgiwale for Unimac Corporation, it is said that their proposal "covers manufacturing programme for Heavy Duty Truck Chassis 200 HP to 500 HP for haulage purposes. This covers 500 nos. of various types of chassis with GVW ratings of 14,000 Kgs [14 tonnes] to 60,000 Kgs [60 tonnes] capacities". In any case, Shri S. M. Ghosh could not have possibly forgotten the view he himself had expressed a few months back that there was no demand for such type of vehicles. Quite obviously the entry of Maruti Limited on the scene accounts for this volte face. Why Unimac's application was rejected on the ground that there was no demand when various organisations were in need of such type of vehicles remains unanswered. Maruti applied about 9 months after the rejection of Unimac's application. It seems all facts touching this aspect have not come to light.

In approving Maruti's proposal for diversification, the Task Force assumed as correct the claim made in the company's letter to the Joint Secretary, Ministry of Industry and Civil Supplies, written on May 11, 1976 that they were producing passenger cars of the value of Rs. 50 lacs every year. Shri V. P. Gupta has told the Commission that the value stated meant about 200 cars a year. The two half-yearly returns that Maruti Limited submitted in the prescribed form to the Department of Heavy Industry however disclose quite a different picture. According to the return for the period ended December 31, 1975, the company had made a number of prototypes. It was also stated in this return that production on moderate scale had commenced and it was expected to increase in the near future. The return for the period ended June 30, 1976 was a replica of the earlier one. The 5th Annual Report of Maruti Limited for the period 1975-76 shows that the "actual production" of motor cars till March 31, 1976 was only 21 in number. The claim that Maruti Limited was producing cars of the value of Rs. 50 lacs a year, made apparently to impress the authorities who would consider the company's diversification proposal, was therefore quite untrue.

Shri Sankaranarayan, Development Officer in the Automobile Division of the DGTD had visited the Maruti factory along with his colleague Shri K. Sharma, another Development Officer, on February 15, 1975 to assess the progress made by the company in the production of passenger cars. They submitted a joint report on February 26. The report expressed doubts as to the ability of Maruti Limited to step up production of cars on commercial scale with the various limitations they had. In reply to a question put to him as to whether it would have been possible for Maruti Limited to manufacture heavy duty vehicles with the equipments already installed, his answer was that though some of the equipments already installed "could be utilised for the manufacture of some components and sub-assemblies of the heavy duty vehicles, it would have been necessary to add significantly to the capital equipment or alternatively go in for heavy sub-contracting for components, sub-assemblies etc.". Shri Mantosh Sondhi has told the Commission that he did not visualise any manufacturing unit of passenger car to go in for manufacture

of such heavy duty trucks by way of diversification because the manufacture of heavy duty trucks would involve substantial expansion. Shri Sondhi's view is of course based on the policy approved by the Minister and reflected in S. M. Ghosh's note dated December 19, 1975. Ghosh admitted that for Maruti Limited switching over to the production of heavy vehicles implied substantial expansion of its capacity, but he said that in his opinion the diversification press note "comprehended it and covered such expansion implicit in diversification". Shri Ghosh added: "the press note was issued by the Department of Industrial Development and my presumption has been that it has been competently issued. We were implementing the press note in terms of specific request". The significance of deleting the conditions from the draft press note prepared by Kannan is now apparent. The policy approved by the Minister concerned as appearing from Kannan's draft press note would not have permitted Maruti Limited to diversify to the manufacture of heavy duty vehicles which implied substantial expansion of its capacity. Shri S. M. Ghosh first removed from the draft press note the impediments to diversification and then took his stand on the press note to claim that it "comprehended and covered such expansion". According to the Minister, Shri T. A. Pai, the press note as published did not have his approval and was therefore "out of order" and accordingly "whatever was done on the basis of that press note was also out of order". It may be mentioned here that the application for diversification made by Maruti Limited was the only application received from the passenger car industry after the press note was published.

On May 20, 1976 Maruti Limited wrote to the Under Secretary, Ministry of Industry and Civil Supplies (Department of Industrial Development), acknowledging the letter approving its proposal for diversification: in this very letter Maruti also asked the Government to increase the capacity from 500 to 2,500 heavy duty vehicles per year. The request for increased capacity was made on the ground that "... the demand that we envisaged for these vehicles at present was 500 vehicles per year, however, this may increase in the future and as such we request you to kindly increase the licensed capacity from 500 nos. per year to 2,500 nos. per year. The demand for this type of vehicles is going to increase and hence this request". It is a little difficult to understand why only nine days earlier, on May 11, 1976, when Maruti Limited mentioned 500 as the number of heavy trucks which the company intended to manufacture, this likely increase in demand could not be anticipated. The letter of May 20, does not disclose any fact that was not known on May 11. The Department of Heavy Industry supported the proposal for increase in licensed capacity and so did DGTD and the Development Commissioner, Small Scale Industries. Shri V. P. Gupta, Under Secretary, Department of Heavy Industry, who dealt with this matter says that he was requested by Shri S. M. Ghosh, Joint Secretary to process the proposal immediately "as it was a sensitive matter". He put up a note on May 27, 1976 suggesting that the proposed enhancement in

the capacity be approved: "There is no gain-saying the fact that the demand for the above types of vehicles [50 tonnes GVW and above] may increase sizeably in the future". S. M. Ghosh, Joint Secretary, recorded his approval on the same day and a letter conveying the approval was issued to Maruti Limited also on the same day, May 27, 1976. In his affidavit Shri V. P. Gupta has admitted that there was no fresh material before him on May 27 to support the conclusion that the demand would go up five times—from 500 to the approved capacity of 2,500 in number.

In the meantime the application for foreign collaboration made by Maruti Limited on May 10, 1976 was also being processed. The Secretariat for Industrial Approvals endorsed copies of the application to the Department of Heavy Industry, DGTD, Development Commissioner, Small Scale Industries, CSIR and several other authorities for comments. The application mentioned only the product proposed to be manufactured, the name of the foreign collaborator—International Harvester of Chicago, U.S.A., and the terms of collaboration. It lacked information on many relevant particulars such as the estimated value of annual production, proposed capital cost of the project including cost of imported and indigenous capital equipment, estimated requirements of raw material and components, phased manufacturing programmes for import substitution, effect on balance of payment with foreign exchange earning and foreign exchange outgo and net foreign exchange inflow, and percentage of royalty computed as a proportion of the ex-factory value of annual production. The foreign collaboration agreement was "initially for a period of five years". No export was "proposed at present" and "no commitments" were "made at present" for exports. The terms of foreign collaboration proposed were:

- (i) Royalty of "5% of the net difference between the U.S. net export price of a licensed product less the value of components purchased from International Harvester. This fee will not apply to any Indian sourced components for which International Harvester does not supply drawings or other technology".
- (ii) "Maruti will pay International Harvester 5% on International Harvester's distributor net price of all service parts manufactured by Maruti or produced from sources other than International Harvester, except that such fee was not applied to service parts for which International Harvester does not supply either the design or application drawings or manufacturing or engineering research or other data developed by International Harvester".

CSIR found that it was not possible for them to technically examine the application in the absence of the aforesaid data. They wrote to Maruti Limited and also asked SIA to furnish them with further information. DGTD considered that the technology involved being highly sophisticated it would be necessary to go in for proven technology and that the International

Harvester enjoyed a very high reputation. According to DGTD, five per cent royalty was reasonable. The lack of technical data in the application, DGTD explained on the ground that unless the foreign firm was assured of government's concurrence to the proposal, they would not be willing to part with necessary information. The Department of Heavy Industry was also of the same view.

A summary for the Foreign Investment Board (FIB) was thereafter prepared incorporating the details of the application and the comments received. The summary was considered by the Board at its meeting held on June 30, 1976. The Foreign Investment Board agreed with the recommendations of the administrative Ministry and approved the proposal on the terms specified above. On July 12, 1976 a letter was issued from SIA to Maruti Limited approving their proposal for collaboration with International Harvester of U.S.A. The terms of collaboration approved appear to have excluded the following standard condition governing foreign collaboration :

"The duration of the agreement shall be for a period of five years from the date of agreement or five years from the date of commencement of production provided production is not delayed beyond three years of signing of agreement, i.e. a maximum period of eight years from the date of signing of agreement. Within this period, the Indian company should develop and set up their own design and research facilities so that continued dependence on foreign collaboration beyond this period will not be necessary."

A copy of the approval letter sent to Maruti Limited which is found in the file [No. 1(24)76-AEI(1) of Department of Heavy Industry] shows that in the annexure containing all the standard terms this one which figures at serial No. (vi) has been crossed out.

On December 15, 1976 Maruti Limited wrote to the Secretary, Department of Industrial Development, Secretariat for Industrial Approvals (Foreign Collaboration Unit) informing him that the "proposal [collaboration with International Harvester] could not materialise because we were offered better terms and conditions by an equally renowned company of West Germany—Machinenfabrik Augsburg-Nurnberg, commonly known as MAN". In fact Maruti Limited had already entered into an agreement with MAN on December 14, 1976 initially for a period of ten years subject to the approval of Central Government. The request made by Maruti Limited in their letter was : "treat our previous foreign collaboration with International Harvester as cancelled and accord your approval to our present collaboration proposal with MAN at the earliest opportunity". As in the case of Maruti's application for collaboration with International Harvester, this letter also did not furnish details on many relevant items. Unlike the previous agreement, the agreement with MAN involved initial lump sum payment of Deutsche Marks (DM) 5,00,000 for transfer of technical know-how followed by payment of

3.5 million DM for transfer of know-how of the proprietary items in instalments proportionate to the value of items. The know-how for the manufacture of axles was not to be transferred before the end of 1982. A two per cent royalty payment on the value of the proprietary items to be manufactured under the licence was also to be paid. The deal with International Harvester involved payment of royalty for five years, the agreement with MAN envisaged payment of royalty for ten years. MAN would also charge technical know-how fee of DM 1 million for the engine. It was added, however, that "MAN has presently a requirement of about 1000 engines per year or the equivalent amount of spares, which could be procured from Maruti within a period of 2 years", but it is apparent from the words used that this was not a firm commitment. The technical know-how fee and the royalty would be subject to taxation under Indian laws. The agreement with MAN covers the following types of vehicles :

Model	Drive	Gross vehicle weight in 1000 Kg.
32.320 DFT	6×4	32
32.320 DFAT	6×6	32
19.320 FT	4×4	19
19.320 FAT	4×2	19

Maruti's letter of December 15, 1976 was addressed to the Secretary, Department of Industrial Development but the Secretary being away on tour it was marked to Joint Secretary Shri A. F. Couto in the Department of Heavy Industry. The application which was in the form of a letter was thus taken on the records of the Department of Heavy Industry and a copy of it was sent to DGTD for comments on December 20. Copies of Maruti's application were not circulated to different authorities by Secretariat for Industrial Approvals, as was the usual procedure. Shri K. Sankaranarayan of DGTD examined the application on the same day and found the terms of collaboration reasonable. A comparative assessment made by DGTD indicates that the foreign exchange outgo under the agreement with MAN was slightly lower, but this was based on the following assumptions :

- (i) In a period of ten years it would be possible to market at least 4000 vehicles at an average cost of Rs. 7,00,000 each.
- (ii) The proportion of bought out components would be around 40 per cent and imported components 30 per cent with the result that royalty would be payable only on 30 per cent of the output. On this reckoning the flat royalty of 5 per cent for International Harvester would work out to Rs. 4.2 crore without tax deductions. In the case of MAN the 2 per cent royalty worked out to Rs. 1.68 crores without taxes. The lump sum payment of 5 million DM (0.5 million down payment plus 3.5 million for transfer of know-how plus 1 million for technical know-how of engines) would be Rs. 1.75 crore without taxes. After deducting the taxes it was found that payment to International Harvester would be Rs. 2.52 crores and to MAN Rs. 2.41 crores.

DGTD also mentioned the following in favour of MAN :

- (a) The lump sum payment to MAN was related to indigenisation programme, and
- (b) MAN would take from India 1000 engines or its equivalent as exports from India which would mean about Rs. 600 to 700 lacs during the ten year period of agreement. It has been pointed out earlier that this could not be taken as a firm commitment.

As regards the longer duration of the MAN agreement, according to DGTD, it was unlikely that any Indian firm would be in a position to absorb the technology in a period of five years. On December 21, the very day on which the comments of DGTD were received in the Department of Heavy Industry, Joint Secretary Shri S. M. Ghosh recommended to the Minister that Maruti be permitted to substitute MAN as collaborator in place of International Harvester. All this was done without reference to the Foreign Investment Board. In his note Shri Ghosh stated among other things that collaboration for ten years for items of high technology had been a practice and not an exception and emphasized the aspect of progressive indigenisation of components envisaged in Maruti's agreement with MAN. An examination of the foreign collaborations approved during the period July 1975 to June 1977 however reveals no case where a foreign collaborator of a private firm had been allowed royalty for ten years without the export condition. Maruti did not undertake any export commitment. As regards indigenisation, it is surprising that Shri Ghosh should have been so enthusiastic about this aspect of MAN's proposal without probing it a little deeper in view of his past experience. What happened was this. A proposal to set up a public sector unit for manufacturing heavy commercial vehicles was already under consideration when the Department of Heavy Industry started processing Maruti's applications for foreign collaboration. In fact a negotiating committee had been appointed with Shri S. M. Ghosh as Chairman, who were negotiating with various parties including MAN of West Germany. The Committee in their interim report stated as follows :—

"M/s. MAN have left the Committee with a distinct impression that they would prefer not to be involved in the responsibility relating to indigenisation of vehicle and component design. In spite of long arguments with the firm's representatives, they continued to harp the view that, at best, they would make available the services of one or more of their specialists to guide Indian engineers in the problems attached to indigenisation but without any commitment or responsibility for such adjustment."

One should have thought that after this Ghosh would prescribe sufficient safeguards so that the condition of 'transfer of technical know-how' in terms of indigenisation was spelt out beyond any ambiguity.

The Minister of Industry Shri T. A. Pai cleared the proposal also on the same day, December 21, 1976.

This meant that Maruti Limited was permitted diversification for the production of heavy duty trucks of 19 tonnes and 32 tonnes GVW. Originally Maruti was allowed diversification for heavy duty vehicles of 50 tonnes GVW and above, it appears that when they applied for change of collaborator on December 15, 1976 they also wrote to the Additional Secretary, Ministry of Industry and Civil Supplies (Department of Heavy Industry) asking for permission to diversify "by taking up manufacture of heavy duty vehicles of 40 tonnes GVW and 100 tonnes GCW and above" in collaboration with MAN. [Department of Heavy Industry File No. 1(23)/76-AEI(1)]. Shri V. P. Gupta, Under-Secretary, Department of Heavy Industry, wrote to Maruti Limited on December 22, 1976 conveying approval to Maruti's proposal for "taking up manufacture of heavy duty vehicles of 40 tonnes GVW/100 tonnes GCW and above. The position therefore was that while Maruti Limited was permitted to collaborate with MAN for the production of vehicles of 19 tonnes and 32 tonnes GVW, the permission given to them to diversify was for the manufacture of vehicles of 40 tonnes GVW/100 tonnes GCW and above. This anomaly was too glaring to have escaped the notice of the authorities. But nothing was done about it. One has no doubt that the approval accorded to collaboration with MAN would not have been cancelled and matters would have been regularised somehow if the irregularity was detected, but from the fact that the authorities did not take any steps, it seems they did not attach any importance to it. Whatever Maruti wanted they had granted, and there was nothing more to do. Secretariat for Industrial Approvals wrote to Maruti Limited on December 23, 1976 conveying Government of India's approval to the change of collaborator. It may be recalled that Shri T. A. Pai told this Commission that the press note on the subject of diversification (to which foreign collaboration was incidental) had been issued without his approval and that every thing done on the basis of this press note was out of order. On March 17, 1977 SIA submitted a note regarding this matter to Foreign Investment Board "for its information and concurrence".

I have earlier referred to a proposal to set up a public sector unit for manufacturing heavy commercial vehicles. How the proposal originated and what happened to it ultimately, which is relevant in this context, may now be told. In March 1973 Shri Mantosh Sondhi, Secretary, Heavy Industry, suggested expansion of the vehicles factory at Jabalpur, which had been set up under the control of the Director General of Ordnance Factories, to bridge the gap between the output and the projected requirement of heavy duty vehicles by the end of the seventh decade. The draft Fifth Five Year Plan (1974—79) assigned Rs. 50 crores for the purpose. In June 1974 a decision was taken in the Department of Defence Production, Ministry of Defence, to de-link the manufacture of vehicles of 10 tonne pay load and above from the expansion of the vehicle factory at Jabalpur. The National Industrial Development Corporation was asked to prepare a feasibility report on the basis of a new plant for manufacture of 12,000 such vehicles in the first phase and 24,000 vehicles in the second phase. They submitted a report in September 1974. After examination of the report the Department of Heavy

Industry wrote to five reputed foreign manufacturers of whom Volvo of Sweden, MAN of West Germany, International Harvester of U.S.A. and, later, Berliet of France replied. The first three firms submitted their proposals by June 1975. To examine the proposals and negotiate with the parties a negotiating team of three persons with Joint Secretary, Department of Heavy Industry, Shri S. M. Ghosh as leader was formed in October 1975. The negotiating committee held discussions with the representatives of MAN, International Harvester and Volvo in December—January 1975/76. A draft interim report of the negotiating committee appears to have been prepared. However, no papers relating to the deliberations of the committee with the foreign collaborators or of its own internal meetings are available in the Department of Heavy Industry except a carbon copy of an unsigned draft interim report. It appears from this draft that the negotiating committee recommended "... of the four proposals received those of M/s, MAN, M/s., Volvo may now be dropped. Representatives of M/s. Berliet and M/s. International Harvester should now be invited for a final round of negotiations making it clear to them that the choice has now been reduced to one of the two depending upon the adjustments they are willing to make further in their proposal as they stand today". In a meeting held on May 14, 1976 for finalisation of the Fifth Plan, the Planning Commission agreed to make an allocation of Rs. 10 crores during 1977—79 for the public sector vehicle project. For the Annual Plan of 1976-77, the Department of Heavy Industry proposed an outlay of Rs. 1 crore for the heavy vehicle public sector project. The project report was still to be prepared, but to meet the expenditure on preliminary studies, Planning Commission agreed to make a token provision of Rs. 10 lacs and the entire amount was provided as budgetary support. On May 10, 1976 Maruti Limited applied for approval of their collaboration agreement with International Harvester. On October 2, 1976 the Chief Minister of Andhra Pradesh enquired of the Industry Minister about the stage to which the Public sector Heavy Vehicle project had progressed. The Secretary, Heavy Industry, to whom the letter was forwarded directed Shri S. M. Ghosh, then an Additional Secretary, on October 8 as follows :

"Please put up a draft reply stating that due to financial constraints it has been decided not to pursue this project."

Shri Ghosh, however, put up a draft stating that "investment sanctioned for this project has yet to be obtained. In view of competing claims on scarce investment resources, it is difficult to say when such a sanction will be forthcoming". This draft was endorsed by the Secretary and a reply was sent to the Chief Minister of Andhra Pradesh accordingly on October 21, 1976. At that point of time the project had been included in the Fifth Plan with the budgetary allocation of Rs. 10 lacs for preliminary studies during 1976-77 and Rs. 10 crores for the project during 1977—79.

It appears that on December 20, 1976 Shri S. M. Ghosh informed the foreign parties that the Government had "decided not to pursue the project for the

present". However, only two days earlier, on December 18, an application of Punjab State Industrial Development Corporation Limited seeking approval to their proposal for manufacture of commercial vehicles in Sangrur District, which had earlier been rejected, came up for consideration before the full Licensing Committee when the representative of the Department of Heavy Industry, Shri V. P. Gupta, Under Secretary, informed the Committee that "his Department would not support the scheme", apart from other reasons, on the ground that "his Department was actively pursuing a proposal to set up a public sector project for the manufacture of commercial vehicles". On January 7, 1977 Andhra Pradesh Minister for Small Scale Industries wanted to be appraised of the progress of the public sector project. A draft reply was put up by the Section endorsed by Shri V. K. Mathur, Private Secretary (Technical) to Minister of Industry, and Additional Secretary S. M. Ghosh. The Andhra Pradesh Minister was informed that "Government had decided not to pursue the project for the present".

After the general elections held in March 1977, at the instance of the Industry Minister an explanatory note was prepared in May 1977 which was approved by Additional Secretary Shri S. M. Ghosh on the subject of the public sector project for heavy vehicles. This note states *inter alia* : "After two rounds of discussion the firms were requested to complete their proposals and these were submitted by them over a period of time, the last of which was received from M/s Berliet of France on 30th June, 1976. Subsequently the Planning Commission indicated that budgetary constraints precluded inclusion of this project in the Vth plan. On their advice, further processing of this proposed (sic.) was abandoned and the foreign bidders for a collaboration, informed accordingly". No papers are available with the Department of Heavy Industry about the deliberations of the negotiating committee. On January 5, 1978 Shri J. M. Lalvani, Secretary of this Commission wrote to Shri Majumdar, Secretary, Planning Commission requesting him to make available to the Commission of Inquiry all files and papers with the Planning Commission concerning the abandonment of the public sector heavy vehicle project. Secretary, Planning Commission, wrote back on January 16, 1978 to say : "On perusal of our papers it is seen that the discussion on the heavy vehicle project was limited to the question of the provision to be made in the Five Year Plan and the Annual Plans . . . We have no papers concerning the abandonment of the scheme by the administrative Ministry". Thereafter, this Commission again wrote to the Planning Commission for clarification after reproducing an extract from the Department of Heavy Industry's note prepared in May 1977 saying "subsequently the Planning Commission indicated that budgetary constraints precluded inclusion of this project in the Vth plan. On their advice, further processing of this proposed (sic.) was abandoned". To this Secretary, Planning Commission, replied on February 4, 1978 as follows :—

"I have got the records checked up again, and as stated in my earlier letter, Planning Commission has no papers concerning the abandonment of the scheme by the administrative

Ministry. Based on the discussions held in May 1976 with the Ministry for the finalisation of the Fifth Plan, a provision of Rs. 10 crores was made for this project in the final Fifth Plan document for the two year period 1977-79 against Rs. 25 crores sought by the administrative Ministry.

The Ministry did not, however, seek any provision for this project during the Annual Plans 1977-78 and 1978-79. Implicitly it could be inferred that the Ministry had, by then, decided not to proceed with the project.

The Planning Commission had not attached high priority to this scheme. It was only at the instance of the Ministry that the provision of Rs. 10 crores was included in the Fifth Plan."

From this letter it would appear that the Department of Heavy Industry themselves did not seek any provision for the project during the Annual Plan for 1977-78 and had also made no provision for it in the revised estimates for 1976-77 even though a provision of Rs. 10 lacs had already been made for it in the budget for 1976-77 and Fifth Plan funds of Rs. 10 crores were available for 1977-79. A perusal of the Department of Heavy Industry File relating to the Plan provision for the year 1977-78 [File II-(3)(1)/76-TSW] supports what the Planning Commission's letter said. From the file it appears that the Department of Heavy Industry (Integrated Finance Wing) Office Memorandum No. G. 20012 (4)/B&A/HI/76 dated September 18, 1976 called upon all administrative sections to submit the revised estimates for 1976-77 and budget estimates for 1977-78 along with reasons for variations between the budget and the revised estimates for the current year and the budget estimates of the next financial year. The concerned section [AEI(1) Section] does not appear to have put up any note or proposal in respect of the public sector vehicle project. In continuation of the letter dated September 18, 1976 of the Integrated Finance Wing, all public sector units were written to on September 30, 1976 for data to be furnished to the Planning Commission for finalising the revised estimates for 1976-77 and the budget estimates for 1977-78. Shri S. M. Ghosh, Additional Secretary called a meeting in his room on November 9, 1976 to discuss the budget proposals of the public sector units. On November 15, 1976 Shri Mantosh Sondhi, Secretary, Heavy Industry, forwarded the detailed proposals of the 1977-78 Annual Plan Outlay and the revised estimate for 1976-77 to Secretary, Planning Commission. A Statement annexed to this letter shows the plan outlay and the budgetary support in the case of commercial vehicle project in the public sector. While the budgetary support for 1976-77 was shown as Rs. 10 lacs, the revised estimate in the same year was shown as nil and the budget estimate and budgetary support for 1977-78 were also shown as nil, the total outlay for 1977-79 indicated was Rs. 10 crores. No reason was stated either for the variation of the revised estimate

from the budget estimate or for not providing funds in the budget of the following year. On November 16 the Department of Heavy Industry forwarded to the Ministry of Finance, Department of Expenditure, copies of these proposals. Comments of the Industry and Minerals Division of the Planning Commission on the proposals of the Department of Heavy Industry, circulated in connection with the meeting to be held in Planning Commission on November 17, 1976 about the Annual Plan of the Department of Heavy Industry, did not include any comments on the commercial vehicle project presumably because the Department of Heavy Industry had made no budgetary proposals. In the statistical portion of the note, however, the fact that a provision of Rs. 10.10 crores had been assigned to the commercial vehicle project in the Fifth Plan and that the Fifth Plan balance for this project during 1978-79 was Rs. 10.10 crores was specified.

From the facts stated above one is left with the impression that all possible competition was removed in a planned way from the path of Maruti's venture in the field of Heavy Duty Vehicles.

After Shrimati Indira Gandhi's defeat in the General Elections held in March 1977, a letter was issued from the Department of Heavy Industry to Maruti Limited on May 10, 1977 on the subject of foreign collaboration agreement with MAN of West Germany. The letter said: "... import of capital goods was required for operating the collaboration agreement and implementation of the diversification scheme in respect of manufacture of heavy duty trucks. It has been reported that workers have been retrenched and civil suits have been filed by the dealers against you for refund of money deposited by them. Therefore, it appears that it will not be possible for you to apply for import of capital goods". It was therefore proposed to withdraw the approval accorded for foreign collaboration and cancel the approval given to the diversification scheme. It was added that "if no satisfactory reply in respect of the above proposals" was received by May 24, 1977, Government would be "proceeding further" in the matter. No reply was received to this letter and on June 4, 1977, the Department of Heavy Industry withdrew the approval given for foreign collaboration and cancelled the approval to the diversification scheme.

MARUTI TECHNICAL SERVICES PRIVATE LIMITED

In the beginning of this chapter it was mentioned that Maruti Technical Services Private Limited obtained import licences for importing some scientific instruments. The company made two applications on December 19, 1974 and June 3, 1975 for the purpose. Though there is no evidence that the company entered into an agreement with any foreign party to import these instruments, some facts concerning the grant of licence may be briefly stated. The first application made by Maruti Technical Services Private Limited was for a licence to import two machines, Spectro Photometer and Metallurgical Microscope. DGTD cleared the application from indigenous angle, that

is, certified that these instruments were not manufactured in this country. The case was then placed before the Capital Goods *Ad hoc* Committee which decided to allow the import of Spectrophotometer with accessories and spares worth Rs. 2,05,354 from German Democratic Republic against Rupces payment sources subject to essentiality being certified by the Ministry of Industry and Civil Supplies and the matter was referred to them for this purpose. The object of essentiality certificate was to ensure that the item was needed for the purpose mentioned. The Ministry of Industry and Civil Supplies stated that the company was not enlisted with them. A unit which was not a production unit had to be registered with the Department of Science and Technology as a research unit, or, if it was a consultancy organisation, with the Ministry of Industry and Civil Supplies as a consultancy unit. The matter was again placed before the Capital Goods *Ad hoc* Committee on July 3, 1975 when the Committee endorsed its earlier decision and further stated that the applicant should be registered as a technical consultancy organisation with the Department of Industrial Development. The object of registration was to make certain that the organisation was carrying on bonafide activities. Shri B. D. Kumar who was Chief Controller of Imports and Exports from May 1974 till November 1975 has said that "normally where a unit is not registered its application is liable to be rejected", but "in this case the Committee did not take this firm stand" because this was "likely to be misconstrued" by Shri Sanjay Gandhi. The case came up again for consideration at a meeting of the Capital Goods *Ad hoc* Committee on February 6, 1976. At this meeting, presided over by Shri P. K. Kaul who took over charge as Chief Controller of Imports and Exports from January 31, 1976, the import of the aforesaid instruments was allowed without any reference to the conditions insisted upon by the Committee in the earlier meetings. Kaul's explanation is that that aspect of the matter was not brought to his notice, the only issue considered was a request for change in the source of import, from GDR to West Germany. The file came to Shri M. I. Singh who was Controller of Imports and Exports in the Office of Chief Controller of Imports and Exports, New Delhi. Mr. Singh says, "I was fully conscious that this matter related to M/s Maruti Technical Services (P) Ltd. which was owned by Shri Sanjay Gandhi. If any letter had to be sent from the CCI&E office [Office of the Chief Controller of Imports and Exports] it would have gone under my signature only as Controller. I had that fear that any further processing by way of insisting or seeking further clarification on registration from the party as a consultancy organisation...as also insistence on the obtaining of essentiality certificate would have recoiled on me and landed me in great trouble. The emergency was in full swing then and the fate of Shri P. S. Bhatnagar of PEC [Project Equipment Corporation] and others for having tried to probe into Maruti affairs was quite fresh in my mind". Shri M. I. Singh adds that "under the prevailing atmosphere I was only eager to get rid of the case with the issue of import licence to the firm as quickly as possible". The import licence for (i) Spectrophotometer and (ii) Metallurgical Microscope, with accessories and spares was issued on March 4, 1976.

In the meantime Maruti Technical Services Private Limited had made another application for licence on June 3, 1975 in respect of three instruments including Gear Rolling Tester No. 895, which, it was said, were required for their laboratory for technical development and research purposes DGTD gave indigenous clearance only for the Gear Rolling Tester. It may be mentioned that prior to the application made by Maruti Technical Services, Maruti Limited had applied for import of Gear Rolling Tester but that application was rejected on the ground that import of capital goods was barred under the conditions of the licence issued to that company. This is another instance of how easily Maruti Limited could get round the prohibition by getting things done through Maruti Technical Services. Shri Nand Kumar who was then working in the office of the Chief Controller of Imports and Exports as Joint Chief Controller noted on the file that the "applicant had not furnished any evidence that they have registered themselves with the Department of Science and Technology as per the procedure". In his statement to the Commission Shri Nand Kumar says, "the application being that of Maruti Technical Services (P) Ltd., connected with Shri Sanjay Gandhi and since it was being talked about that some action had been taken against certain officials of DGTD etc., including Shri A. S. Rajan, Development Officer of DGTD, and Shri Krishnaswamy of Heavy Industry for collecting details for answering Parliament Questions against Maruti Ltd., no officer was inclined to individually take the responsibility of deciding to insist on the requisite condition of registration and certification of essentiality as a pre-condition to the issue of import licence. That is why it was thought fit that the matter could be left to the Capital Goods *Ad hoc* Committee to take a decision". In the meeting of the Capital Goods *Ad hoc* Committee held on August 21, 1975 it was decided to refer the case to the Department of Science and Technology. The Department of Science and Technology replied that Maruti Technical Services Private Limited were not registered with them as a research and development unit. In the next meeting held on August 28, 1975 the Capital Goods *Ad hoc* Committee presided over by Shri B. D. Kumar, Chief Controller of Imports and Exports, decided to permit import of one Gear Rolling Tester from West Germany against West German Credit. Shri B. D. Kumar also speaks of the prevailing atmosphere at that time and says that the conditions as to registration and essentiality were not insisted on in this atmosphere. Shri B. D. Kumar says further : "all the officers were aware of the treatment meted to those of the Department of Heavy Industry and DGTD when they were trying to collect information for answering questions in Parliament relating to Maruti Ltd." Shri B. D. Kumar names one officer, Shri Krishnaswamy, in the Department of Heavy Industry, two in the Project Equipment Corporation, Mr. Kolay and Mr. Bhatnagar, and another officer in DGTD, Mr. Rajan.

Maruti Technical Services Private Limited got the import licences without complying with the rules. The officers were too terrified to insist on the rules, they knew what happened to those who proved difficult to Shri Sanjay Gandhi.

CHAPTER X

CONCLUSION

There is hardly anything that remains to be said except to emphasise a point or two.

The affairs of the Maruti concerns described in the previous chapters appear to have brought about a decline in the integrity of public life and sullied the purity of administration. Legal and other requirements were brushed aside and accepted norms of behaviour were forgotten on many occasions when the interest of a Maruti company was involved. This was due to, as witness after witness repeated, an atmosphere of fear then prevailing; anything connected with the Maruti concerns was looked upon as a "sensitive matter". And the fear was real. Threat of detention under the Maintenance of Internal Security Act or a CBI inquiry or other forms of harassment made it hazardous for the officers to insist on the rules or the dealers and depositors to insist on their rights. Persons in public life were in danger of having their political careers ruined. That it was not an idle threat is proved by instances of persons in whose case the threat was carried out. Some of the officers who went out of their way to be helpful to Maruti have denied that they were under any fear or pressure. What then made them act in the way they did? No evidence has been found that any other kind of inducement was held out to them, and it is difficult to get direct evidence in such matters. In their case it may have been only a hope that in future, if an occasion arose, the services rendered by them would be remembered. It may have been power-worship which blurs judgement and makes one believe that the present trends will continue and whoever is in power at the moment is invincible. They could not enforce the laws against those who appeared to be the laws' masters.

Quite a few of the applications that Shri Sanjay Gandhi made and the letters he wrote to the authorities asking for something for his business concerns were undated or did not contain a proper signature;

in some of them a scratch of the pen or a tick mark has to be taken as his signature. It seems Shri Sanjay Gandhi was convinced that making these applications or writing these letters were a mere formality, it was predetermined that all he wanted would be granted to him—and in most cases they were. From the interest taken in Maruti's progress by men from the Prime Minister's Secretariat and the way even matters connected with the country's defence were subordinated to the interest of Maruti Limited, and the prevailing sense of fear that prompted implicit obedience, one is left in no doubt as to the origin of the power that made such a state of affairs possible. Shri Sanjay Gandhi exercised only a derivative power, its source was the authority of the Prime Minister.

A number of irregularities in the working of the Maruti companies have been noticed in the foregoing pages. The minutes books do not appear to have been kept in the prescribed manner, at least two resolutions stated to have been passed by the Board of Directors of Maruti Limited have not been recorded. Evidence has been adduced showing that shares of Maruti Limited were allotted to persons who knew nothing about the transactions also that in February 1977 large sums of money were paid out to fictitious persons as refund of their dealership reservation money or deposits made by them along with their alleged applications for Maruti shares. All these indicate the presence of unaccounted money. It has not been possible for the Commission to examine all the vouchers, books of original entries and other records and documents. What is revealed in such examination as the Commission has been able to do suggests that if a joint and co-ordinated examination of the records of the Maruti companies is done by the Departments of Revenue and Company Affairs and their books of account are audited by a special team, many more irregularities are likely to come to light.

Sd/-

(A. C. GUPTA)
May 31, 1979